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### 1AC---LEGITIMACY

#### CONTENTION 1 IS LEGITIMACY:

#### Current US detention policies are collapsing US legitimacy in the rule of law

Katherine L. Vaughns 8/12/13, JD from Berkley, professor of Law at the University of Maryland, "Of Civil Wrongs and Rights: Kiyemba v. Obama¶ and the Meaning of Freedom, Separation of¶ Powers, and the Rule of Law Ten Years After 9/11," Asian American Law Journal, Vol 20.1

As history will recall, in May 1977, former President Richard M. ¶ Nixon famously told British interviewer David Frost that “when the ¶ President does it, that means that it is not illegal.”163 The Bush ¶ administration, taking a page out of Nixon’s playbook, used various tactics, ¶ apparently effectively, to “dismantle constitutional checks and balances and ¶ to circumvent the rule of law.”164 In so doing, the administration took ¶ advantage of 9/11 to assert “the most staggering view of unlimited ¶ presidential power since Nixon’s assertion of imperial prerogatives.”165¶ The D.C. Circuit’s opinion in Kiyemba III, reinstating as modified its ¶ opinion in Kiyemba I, is, as I have noted, now governing precedent. That ¶ earlier opinion, adopting a view that the government had argued all along, ¶ re-characterizes the law pertaining to detainees at Guantanamo Bay as a ¶ matter of immigration. Immigration is an area of law where the sovereign ¶ prerogative on which an individual is admitted or excluded from entry into ¶ the United States is virtually immune from judicial review.166 The Bush ¶ administration long ago adopted the position that judicial review of its ¶ detention policies would frustrate its war efforts and its Commander-in Chief authority, so that efforts to fit Kiyemba within the immigration ¶ framework worked to the government’s benefit. But, as the Boumediene ¶ Court explained, “the exercise of [the Executive’s Commander-in-Chief] ¶ powers is vindicated, not eroded, when [or if] confirmed” by the ¶ judiciary.167¶ In 2007, Ninth Circuit Judge A. Wallace Tashima observed that the ¶ rule of law—touted by the United States throughout the world since the end ¶ of World War II—has been “steadily undermined . . . since we began the ¶ so-called ‘War on Terror.’”168 “The American legal messenger,” Tashima notes, “has been regarded throughout the world as a trusted figure of ¶ goodwill, mainly by virtue of close identification with the message borne: ¶ that the rule of law is fundamental to a free, open, and pluralistic society,” ¶ that the United States represents “a government of laws and not of ¶ persons,” and that “no one—not even the President—is above the law.”169¶ But, according to Tashima, the actions that the United States has “taken in ¶ the War on Terror, especially [through] our detention policies, have belied our commitment to the rule of law and caused [a] dramatic shift in world opinion,” so that the War on Terror has been greeted internationally with ¶ “increasing skepticism and even hostility.”170 Put differently, the United ¶ States has shot the messenger—and with it, goes the message, the ¶ commitment to the rule of law, and our international credibility.¶ The primary assassin in this “assault on the role of law” is the ¶ argument “that the President is not bound by law—that he can flout the ¶ Constitution, treaties, and statutes of the United States as Commander-inChief during times of war.”171 Also wreaking havoc on the rule of law is ¶ the notion, described above, that the President’s actions in times of war are ¶ unreviewable, and that the judiciary has no role to play in checking ¶ wartime policies—a notion perpetuated by placement of issues like those ¶ raised in Kiyemba within the immigration framework.

#### First, military courts hamper US credibility---the plan’s key

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As these examples reveal, many propositions have been advanced to provide for a solution to these detainees with no particular success. Meanwhile, human rights advocates have their eyes centered on our nation. The Human Rights Watch has recently expressed its concerns with respect to the MCA. It advanced that the military commissions "fall far short of international due process standards." n156 It has been articulated that U.S. "artificial" derogation from the Geneva Conventions by virtue [\*440] of the MCA leaves open the door for other States to "opt-out" as well. In other words, any step back from the Geneva Conventions could also provoke mistreatment of captured U.S. military personnel. In addition, scholars of international jurisprudence claim there have been over 50 years since Geneva was entered into force and it has been applied in every conflict. n157 However, U.S. current policies undercut the overarching principles under international law to strive for uniform human rights policies around the World. In the current state of affairs, the Executive branch becomes three branches in one: legislator, executive enforcer, and judge of its own actions. The lack of independent judicial oversight deprives detainees from the opportunity of impartial judicial review of verdicts, regardless of their arbitrariness or lack of legal soundness.¶ In response to the consequences of this expansive executive power, the U.N. Human Rights Committee stated that the use of military courts could present serious problems as far as the equitable, impartial, independent administration of justice is concerned. As detainees have increasingly been deemed non-enemy-combatants, it is possible to assess how the Executive, now Congressional actions, captures civilians who had no connection to the armed conflict. In other words, as a consequence of the disparate overreaching power of the political branches and a rather weakened Judiciary, the U.S. is substantially regarded by the international community with complete disapproval.¶ Thus, the impact of U.S. current polities in the International Community is, at the very least, alarming. If entitling the detainees to a unified due process approach seems unrealistic, at minimum, they should be treated in a manner consistent with the principles of the Geneva Conventions. Relevant provisions in the Third Convention provide that detainees are entitled to a presumption of protection thereunder, "until such time as their status has been determined by a competent tribunal." The detainees must first be designated as civilians, combatant, or criminals rather than lumped into a single composite group of unlawful combatants by presidential fiat. Moreover, the International Covenant on Civil and Political Rights mandates that "[n]o one shall be subjected to arbitrary arrest or detention and those deprived of liberty shall be entitled [\*441] to take proceedings before a court." n158 The meaning of "court" within the Covenant was aimed at civilian courts, not military, in the sense that the preoccupation was to provide them with a fair adjudication with respect to the detainees' status. Yet, the U.S. Government chose to ignore the requirements under international law despite apparently false claims that it would be followed. n159 Instead, as previously discussed in Part II of this Article, Congress made sure that international law does not provide a substantive basis of relief for these detainees' claims by virtue of the MCA.¶ The vast cultural, economic and political differences among signatory States were deemed as plausible justification for permitting reservations treaties. By this mechanism, the States are provided the opportunity to somewhat "tailor" multilateral treaties to their realities. It is evident that the U.S. Government has granted itself the right not to be entirely bound by international law. How wise the use of this mechanism was undertaken by U.S. may be reflected by the current the impact of U.S. policies toward international law mandates. As the detainees' situation develops, however, the U.S. image within the international community is in serious jeopardy. As a result a widespread criticism of the U.S. policies generated an atmosphere of wariness of U.S's ability and willingness to preserve individuals' fundamental rights at any time a situation is categorized as "emergency."¶ [\*442] V. CONCLUSION¶ All the problems outlined in this Article can be corrected. It would not take more than going back to the Constitution and reconstituting the Framers' intent in promoting the leadership of the country as an integral body composed by the three branches of Government. The U.S. Government should ensure that the wide gap between domestic law and the law of armed conflict is minimized by allowing those tried before military commissions to receive trials up to the level of American justice. If no action is taken, the American justice once internationally admired will give space to a stain in the American history. Congress should be more active in undertaking its role of making the law rather than merely voting on proposals based on their political agenda or the Executive's wishes. The Judiciary should step up and actively "say what the law is" rather than handing down amorphous rulings stigmatizing detainees on the basis of their citizenship status. Under basic constitutional principles, doing justice means equal protections of the laws. Using the claim of times of emergency to justify abusive treatment does not foster a democratic society. If the military is not able to advance legal grounds to hold these detainees, they should be released. The Judiciary should be eager to have a case challenging the MCA sooner rather than later and take the opportunity to lay down a clearly ruling on how these detainees should be accorded equal safeguards regardless of their race, national origin, or status. In other words, the Judiciary should take back what Congress has taken away, through implementing major modifications to the Executive's ill-conceived policies regarding commissions. In terms of meaningful separation of powers mandates, what the Constitution has given, Congress cannot take away.

#### Second, current US policy conveys xenophobia---independently decks legitimacy

Neal K. Katyal 07, Professor of Law, Georgetown University Law Center, "Equality in the War on Terror," Stanford Law Review, 59 Stan. L. Rev. 1365-1394, scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=1408&context=facpub

There is simply no reason why the government must subject aliens who are alleged to have participated in acts of terrorism to military commissions, but need not do so for citizens suspected of the same crimes. If it is truly necessary to treat aliens this way to combat terrorism effectively, then the very same need would exist for citizens as well. A citizen who commits a terrorist act is just as culpable as the alien who commits that act. Indeed, there is an argument that the citizen’s actions are worse—since he is guilty of treason in addition to whatever else he has perpetrated.¶ The breakdown in parity between citizen and alien post-9/11 is a new, and disturbing, trend. Even the horrendous internment of Japanese Americans in World War II applied symmetrically to citizens and aliens. 98 The policy was memorably defended by Lieutenant General John DeWit before Congress: “A Jap’s a Jap. It makes no difference whether he is an American citizen or not.” 99 Some, such as former Chief Justice Rehnquist, have disagreed, arguing that the problem in World War II was applying these exclusion orders to citizens. His argument was grounded entirely upon the Alien Enemy Act, which he recognized permitted only the “‘summary arrest, internment and deportation wherever a declared war exists.’” 100 Entirely missing from this account was any discussion of whether a disparity between alien and citizen might have made matters worse, instead of better. After all, the one positive thing that can be said in the policy’s favor was that at least it affected a few people who could vote. 101¶ To say this is not to argue that liberty concerns are always inappropriate and that the government has carte blanch e when it acts evenhandedly. There are some substantive constitutional principles—such as prohibiting the mass detention of an entire race of people without any individualized basis—that properly should be frozen into constitutional law. But when the boundaries of liberty are uncertain, as they tend to be today, equality arguments offer a mechanism to prompt legislative reconsideration and democratic accountability.¶ Laws of general applicability are not only preferable, they also keep us safer. In affording the same process to alien and citizen detainees, we maintain the superiority of our judicial system. The federal courts have a tried and true record of discerning the guilty from the innocent without turning to arbitrary distinctions such as alienage. Our civilian courts have handled a variety of challenges and complicated cases—from the trial of the Oklahoma City bombers to the awful spying of Aldrich Ames and others. They have tried the 1993 World Trade Center bombers, Manuel Noriega, and dozens of other cases. They have prosecuted cases where the crimes were committed abroad. Indeed, the Justice Department has recently extolled its resounding success in terrorism cases in federal civilian court—where it has proceeded to charge nearly 500 individuals with crimes of terrorism. 102 Our national security policy requires adherence to a judicial process that works for all terrorist suspects. A two- tiered justice system jeopardizes not only the rights of alien suspects, but also the safety of American citizens.¶ As the world becomes even smaller, and the movement of people across borders becomes even more fluid, we need a unitary legal system that is capable of embracing all those in our jurisdiction: one that does not pick and choose who gets fundamental protections. Only then can we be assured that the real terrorists are brought to justice.¶ Moreover, legislation should not play on post-9/11 xenophobia. In the wake of terrorism, fears are heightened, rationality is muted, and it is the government’s responsibility to be the source of reason amidst the chaos, not to fan fears and stimulate even greater hatred. In pointing toward alien detainees as the sole source of danger, however, legislation such as the MCA fails to provide actual solutions to the threat of terrorism. Our policy cannot afford to dally under any delusions that foreigners are the sole source of terrorist impulses. The threat of terrorism permeates all borders, and only fair and evenhanded laws can effectively ferret out that threat. Allowing rank discrimination to drive policy takes attention away from national security and focuses on meaningless distinctions of “us” versus “them.” 103¶ Finally, in the wake of international disdain for the military tribunals authorized by President Bush, our country is already under global scrutiny for its disparate treatment of non-U.S. citizens. We must be careful not to further the perception that, in matters of justice, the U.S. government adopts special rules that single out foreigners for disfavor. Otherwise, the result will be more international condemnation and increased enmity about Americans worldwide. The predictable result will be less cooperation and intelligence sharing, and fewer extraditions to boot.¶ In this respect, the laws of war have changed markedly in recent years, and now reflect the basic equality principle. The Geneva Conventions, for example, require a signatory to treat enemy prisoners of war the same way as it treats its own soldiers. 104 Even for non-prisoners of war, the minimum requirements of Common Article 3 require trials to take place in a “regularly constituted court.” 105 As the International Committee of the Red Cross Commentary puts it:¶ [C]ourt proceedings should be carried out in a uniform manner, whatever the nationality of the accused. Nationals, friends, enemies, all should be subject to the same rules of procedure and judged by the same courts. There is therefore no question of setting up special tribunals to try war criminals of enemy nationality. 106¶ Again, the logic of such provisions is best understood as creating virtual representation—ensuring that the interests of accused enemies will be vindicated by the application of longstanding procedural rules for the trial of the signatory power’s own troops.¶ Fidelity to these precepts, far from undermining the war on terror, is the best way to win it. By demonstrating that America is not being unfair—and by subjecting those from other lands to the same justice Americans face for the same crimes—America projects not only benevolence, but strength. America’s soft power depends, in no small part, on being able to rise above pettiness and to highlight the vitality of our system. Carving out special rules for “them” and reserving different rules for “us” is no way to win respect internationally. ¶ The British experience provides a useful contrast. The House of Lords in A v. Secretary of State for the Home Department, 107 struck down the terrorist detention policy on equality grounds. They found that there was no reasonable or objective justification why a non-U.K. national suspected of being a terrorist could be detained while a U.K. national would be allowed to go free. The Lords rejected the Attorney General’s arguments that immigration law and international law justified differential treatment, including detention, of aliens in times of war or public emergency. 108 As Lord Nicholls put it, “The principal weakness in the Government’s case lies in the different treatment accorded to nationals and non-nationals. . . . The Government has vouchsafed no persuasive explanation of why national security calls for a power of indefinite detention in one case but not the other.” 109 The upshot was that it was “difficult to see how the extreme circumstances, which alone would justify such detention, can exist when lesser protective steps apparently suffice in the case of British citizens suspected of being international terrorists.” 110¶ Sadly, the experience of Britain under the European Convention on Human Rights is far truer to our backbone of equality than that of our own politicians under our own Constitution, who conveniently forget about equality even on fundamental decisions such as who would face a military trial with the death penalty at stake. Indeed, the United Kingdom reacted to the decision by adopting laws that treated citizens and foreigners alike. 111 Although our Founders broke away from Britain in part because of the King’s refusal to adhere to the basic proposition that “all men are created equal,” it is now Britain that is teaching us about the meaning of those words.¶ In sum, by splitting our legal standards on the basis of alienage, we are in effect jeopardizing our own safety and national interest. When terror policy is driven by anti-alien sentiment, the result is only our own isolation. It will not only chill relations with key allies abroad and disrupt extraditions, it will also alienate many of our own citizens who have relied on our country’s longstanding commitment to equal justice for all.

#### The plan’s external oversight on detention maintains heg---legitimacy is the vital internal link to global stability

Robert Knowles 9, Acting Assistant Professor, New York University School of Law, Spring, “Article: American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, Lexis

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they can rely on those interpretations and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424¶ The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429¶ In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n430 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy.¶ The Supreme Court's response to the detainee policy enabled the U.S. government as a whole to hew more closely to established procedures and norms, and to regularize the process for departing from them. After Hamdi, n432 the Department of Defense established a process, the CSRTs, for making an individual determination about the enemy combatant status of all detainees at Guantanamo. After the Court recognized habeas jurisdiction at Guantanamo, Congress passed the DTA, n433 establishing direct judicial review of CSRT determinations in lieu of habeas. Similarly, after the Court declared the military commissions unlawful in Hamdan, n434 this forced the Administration to seek congressional approval for commissions that restored some of the rights afforded at courts martial. n435 In Boumediene, the Court rejected the executive branch's foreign policy arguments, and bucked Congress as well, to restore the norm of habeas review. n436¶ Throughout this enemy combatant litigation, it has been the courts' relative insulation from politics that has enabled them to take the long view. In contrast, the President's (and Congress's) responsiveness to political concerns in the wake of 9/11 has encouraged them to depart from established norms for the nation's perceived short-term advantage, even at the expense of the nation's long-term interests. n437 As Derek Jinks and Neal Katyal have observed, "treaties are part of [a] system of time-tested standards, and this feature makes the wisdom of their judicial interpretation manifest." n438¶ At the same time, the enemy combatant cases make allowances for the executive branch's superior speed. The care that the Court took to limit the issues it decided in each case gave the executive branch plenty of time to [\*157] arrive at an effective detainee policy. n439 Hamdi, Rasul, and Boumediene recognized that the availability of habeas would depend on the distance from the battlefield and the length of detention. n440¶ The enemy combatant litigation also underscores the extent to which the classic realist assumptions about courts' legitimacy in foreign affairs have been turned on their head. In an anarchic world, legitimacy derives largely from brute force. The courts have no armies at their disposal and look weak when they issue decisions that cannot be enforced. n441 But in a hegemonic system, where governance depends on voluntary acquiescence, the courts have a greater role to play. Rather than hobbling the exercise of foreign policy, the courts are a key form of "soft power." n442 As Justice Kennedy's majority opinion observed in Boumediene, courts can bestow external legitimacy on the acts of the political branches. n443 Acts having a basis in law are almost universally regarded as more legitimate than merely political acts. Most foreign policy experts believe that the Bush Administration's detention scheme "hurt America's image and standing in the world." n444 The restoration of habeas corpus in Boumediene may help begin to counteract this loss of prestige.¶ Finally, the enemy combatant cases are striking in that they embrace a role for representation-reinforcement in the international realm. n445 Although defenders of special deference acknowledge that courts' strengths lie in protecting the rights of minorities, it has been very difficult for courts to protect these rights in the face of exigencies asserted by the executive branch in foreign affairs matters. This is especially difficult when the minorities are alleged enemy aliens being held outside the sovereign territory of the United States in wartime. In the infamous Korematsu decision, another World War II-era case, the Court bowed to the President's factual assessment of the emergency justifying detention of U.S. citizens of Japanese ancestry living in the United States. n446 In Boumediene, the Court [\*158] pointedly declined to defer to the executive branch's factual assessments of military necessity. n447 The court may have recognized that a more aggressive role in protecting the rights of non-citizens was required by American hegemony. In fact, the arguments for deference with respect to the rights of non-citizens are even weaker because aliens lack a political constituency in the United States. n448 This outward-looking form of representation-reinforcement serves important functions. It strengthens the legitimacy of U.S. hegemony by establishing equality as a benchmark and reinforces the sense that our constitutional values reflect universal human rights. n449¶ Conclusion¶ When it comes to the constitutional regime of foreign affairs, geopolitics has always mattered. Understandings about America's role in the world have shaped foreign affairs doctrines. But the classic realist assumptions that support special deference do not reflect the world as it is today. A better, more realist, approach looks to the ways that the courts can reinforce and legitimize America's leadership role. The Supreme Court's rejection of the government's claimed exigencies in the enemy combatant cases strongly indicates that the Judiciary is becoming reconciled to the current world order and is asserting its prerogatives in response to the fewer constraints imposed on the executive branch. In other words, the courts are moving toward the hegemonic model. In the great dismal swamp that is the judicial treatment of foreign affairs, this transformation offers hope for clarity: the positive reality of the international system, despite terrorism and other serious challenges, permits the courts to reduce the "deference gap" between foreign and domestic cases.

#### Nuclear war

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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, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order 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 to the 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.

#### Material power’s irrelevant---lack of legitimacy makes heg ineffective

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Going against common conceptions, I argue that the United States sought to advance more than what it viewed as simply its own interest. The United States stands behind multiple collaborative enterprises and should be credited for that. Nevertheless, sometimes it has overreached, sought to gain special rights other states do not have, or presented strategies that were not compatible with the general design of the war on terrorism, to which most states subscribed. When it went too far, the United States found that, while secondary powers could not stop it from taking action, they could deny it legitimacy and make the achievement of its objectives unattainable. Thus, despite the common narrative, U.S. power was successfully checked, and the United States found the limitations of its power, even under the Bush administration. Defining Hegemony Let me begin with my conception of hegemony. While the definition of hegemony is based on its material aspects—the preponderance of power—hegemony should be understood as a part of a social web comprised of states. A hegemon relates to the other states in the system not merely through the prism of power balances, but through shared norms and a system of rules providing an umbrella for interstate relations. Although interstate conflict is ubiquitous in international society and the pursuit of particularistic interests is common, the international society provides a normative framework that restricts and moderates the hegemon's actions. This normative framework accounts for the hegemon's inclination toward orderly and peaceful interstate relations and minimizes its reliance on power. A hegemon’s role in the international community relies on legitimacy. Legitimacy is associated with external recognition of the hegemon’s right of primacy, not just the fact of this primacy. States recognize the hegemon’s power, but they develop expectations that go beyond the idea that the hegemon will act as it wishes because it has the capabilities to do so. Instead, the primacy of the hegemon is manifested in the belief that, while it has special rights that other members of the international society lack, it also has a set of duties to the members of the international society. As long as the hegemon realizes its commitment to the collective, its position will be deemed legitimate. International cooperation is hard to achieve. And, in general, international relations is not a story of harmony. A state’s first inclination is to think about its own interests, and states always prefer doing less over doing more. The inclination to pass the buck or to free ride on the efforts of others is always in the background. If a hegemon is willing to lead in pursuit of collective interests and to shoulder most of the burden, it can improve the prospects of international cooperation. However, even when there is a hegemon willing to lead a collective action and when states accept that action is needed, obstacles may still arise. These difficulties can be attributed to various factors, but especially prominent is the disagreement over the particular strategy that the hegemon promotes in pursuing the general interest. When states think that the strategy and policies offered by the hegemon are not compatible with the accepted rules of “rightful conduct” and break established norms, many will disapprove and resist. Indeed, while acceptance of a hegemon’s leadership in international society may result in broad willingness to cooperate with the hegemon in pursuit of shared interests it does not guarantee immediate and unconditional compliance with all the policies the hegemon articulates. While its legitimacy does transfer to its actions and grants some leeway, that legitimacy does not justify every policy the hegemon pursues—particularly those policies that are not seen as naturally deriving from the existing order. As a result, specific policies must be legitimated before cooperation takes place. This process constrains the hegemon’s actions and prevents the uninhibited exercise of power.

#### Independently, absent renewal of rule of law principles, multilateral cooperation to solve warming and disease is impossible

John G. Ikenberry 11, Albert G. Milbank Professor of Politics and International Affairs at Princeton, Spring, “A World of Our Making”, http://www.democracyjournal.org/20/a-world-of-our-making.php?page=all

Grand Strategy as Liberal Order Building American dominance of the global system will eventually yield to the rise of other powerful states. The unipolar moment will pass. In facing this circumstance, American grand strategy should be informed by answers to this question: What sort of international order would we like to see in place in 2020 or 2030 when America is less powerful? Grand strategy is a set of coordinated and sustained policies designed to address the long-term threats and opportunities that lie beyond the country’s shores. Given the great shifts in the global system and the crisis of liberal hegemonic order, how should the United States pursue grand strategy in the coming years? The answer is that the United States should work with others to rebuild and renew the institutional foundations of the liberal international order and along the way re-establish its own authority as a global leader. The United States is going to need to invest in alliances, partnerships, multilateral institutions, special relationships, great-power concerts, cooperative security pacts, and democratic security communities. That is, the United States will need to return to the great tasks of liberal order building. It is useful to distinguish between two types of grand strategy: positional and milieu oriented. With a positional grand strategy, a great power seeks to diminish the power or threat embodied in a specific challenger state or group of states. Examples are Nazi Germany, Imperial Japan, the Soviet bloc, and perhaps—in the future—Greater China. With a milieu-oriented grand strategy, a great power does not target a specific state but seeks to structure its general international environment in ways that are congenial with its long-term security. This might entail building the infrastructure of international cooperation, promoting trade and democracy in various regions of the world, and establishing partnerships that might be useful for various contingencies. My point is that under conditions of unipolarity, in a world of diffuse threats, and with pervasive uncertainty over what the specific security challenges will be in the future, this milieu-based approach to grand strategy is necessary. The United States does not face the sort of singular geopolitical threat that it did with the fascist and communist powers of the last century. Indeed, compared with the dark days of the 1930s or the Cold War, America lives in an extraordinarily benign security environment. Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. Global warming, nuclear proliferation, jihadist terrorism, energy security, health pandemics—these and other dangers loom on the horizon. Any of these threats could endanger Americans’ lives and way of life either directly or indirectly by destabilizing the global system upon which American security and prosperity depends. What is more, these threats are interconnected—and it is their interactive effects that represent the most acute danger. And if several of these threats materialize at the same time and interact to generate greater violence and instability, then the global order itself, as well as the foundations of American national security, would be put at risk. What unites these threats and challenges is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence—stem from the weakness of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for weak states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States can-not hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action against this unusually diverse, diffuse, and unpredictable array of threats and challenges. This is why a milieu-based grand strategy is attractive. The objective is to shape the international environment to maximize your capacities to protect the nation from threats. To engage in liberal order building is to invest in international cooperative frameworks—that is, rules, institutions, partnerships, networks, standby capacities, social knowledge, etc.—in which the United States operates. To build international order is to increase the global stock of “social capital”—which is the term Pierre Bourdieu, Robert Putnam, and other social scientists have used to define the actual and potential resources and capacities within a political community, manifest in and through its networks of social relations, that are available for solving collective problems. If American grand strategy is to be organized around liberal order building, what are the specific objectives and what is the policy agenda? There are five such objectives. First, the United States needs to lead in the building of an enhanced protective infrastructure that helps prevent the emergence of threats and limits the damage if they do materialize. Many of the threats mentioned above are manifest as socioeconomic backwardness and failure that cause regional and international instability and conflict. These are the sorts of threats that are likely to arise with the coming of global warming and epidemic disease. What is needed here is institutional cooperation to strengthen the capacity of governments and the international com-munity to prevent epidemics or food shortages or mass migrations that create global upheaval—and mitigate the effects of these upheavals if they occur. The international system already has a great deal of this protective infrastructure—institutions and networks that pro-mote cooperation over public health, refugees, and emergency aid. But as the scale and scope of potential problems grow in the twenty-first century, investments in these preventive and management capacities will also need to grow. Early warning systems, protocols for emergency operations, standby capacities, etc.—these safeguards are the stuff of a protective global infrastructure. Second, the United States should recommit to and rebuild its security alliances. The idea is to update the old bargains that lie behind these security pacts. In NATO, but also in the East Asia bilateral partner-ships, the United States agrees to provide security protection to the other states and brings its partners into the process of decision-making over the use of force. In return, these partners agree to work with the United States—providing manpower, logistics, and other types of support—in wider theaters of action. The United States gives up some autonomy in strategic decision-making, although it is more an informal restraint than a legally binding one, and in exchange it gets cooperation and political support. Third, the United States should reform and create encompassing global institutions that foster and legitimate collective action. The first move here should be to reform the United Nations, starting with the expansion of the permanent membership on the Security Council. Several plans have been proposed. All of them entail adding new members—such as Germany, Japan, India, Brazil, South Africa, and others—and reforming the voting procedures. Almost all of the candidates for permanent membership are mature or rising democracies. The goal, of course, is to make them stakeholders in the United Nations and thereby strengthen the primacy of the UN as a vehicle for global collective action. There really is no substitute for the legitimacy that the United Nations can offer to emergency actions—humanitarian interventions, economic sanctions, uses of force against terrorists, and so forth. Public support in advanced democracies grows rapidly when their governments can stand behind a UN-sanctioned action. Fourth, the United States should accommodate and institution-ally engage China. China will most likely be a dominant state, and the United States will need to yield to it in various ways. The United States should respond to the rise of China by strengthening the rules and institutions of the liberal international order—deepening their roots, integrating rising capitalist democracies, sharing authority and functional roles. The United States should also intensify cooperation with Europe and renew joint commitments to alliances and multilateral global governance. The more that China faces not just the United States but the entire world of capitalist democracies, the better. This is not to argue that China must face a grand counterbalancing alliance against it. Rather, it should face a complex and highly integrated global system—one that is so encompassing and deeply entrenched that it essentially has no choice but to join it and seek to prosper within it. The United States should also be seeking to construct a regional security order in East Asia that can provide a framework for managing the coming shifts. The idea is not to block China’s entry into the regional order but to help shape its terms, looking for opportunities to strike strategic bargains at various moments along the shifting power trajectories and encroaching geopolitical spheres. The big bargain that the United States will want to strike is this: to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core strategic interests, which include remaining a dominant security provider within East Asia. In striking this strategic bargain, the United States will also want to try to build multilateral institutional arrangements in East Asia that will tie China to the wider region. Fifth, the United States should reclaim a liberal internationalist public philosophy. When American officials after World War II championed the building of a rule-based postwar order, they articulated a distinctive internationalist vision of order that has faded in recent decades. It was a vision that entailed a synthesis of liberal and realist ideas about economic and national security, and the sources of stable and peaceful order. These ideas—drawn from the experiences with the New Deal and the previous decades of war and depression—led American leaders to associate the national interest with the building of a managed and institutionalized global system. What is needed today is a renewed public philosophy of liberal internationalism—a shift away from neoliberal-ism—that can inform American elites as they make trade-offs between sovereignty and institutional cooperation. Under this philosophy, the restraint and the commitment of American power went hand in hand. Global rules and institutions advanced America’s national interest rather than threatened it. The alternative public philosophies that have circulated in recent years—philosophies that champion American unilateralism and disentanglement from global rules and institutions—did not meet with great success. So an opening exists for America’s postwar vision of internationalism to be updated and rearticulated today. The United States should embrace the tenets of this liberal public philosophy: Lead with rules rather than dominate with power; provide public goods and connect their provision to cooperative and accommodative policies of others; build and renew international rules and institutions that work to reinforce the capacities of states to govern and achieve security and economic success; keep the other liberal democracies close; and let the global system itself do the deep work of liberal modernization. As it navigates this brave new world, the United States will find itself needing to share power and rely in part on others to ensure its security. It will not be able to depend on unipolar power or airtight borders. It will need, above all else, authority and respect as a global leader. The United States has lost some of that authority and respect in recent years. In committing itself to a grand strategy of liberal order building, it can begin the process of gaining it back.

#### Warming causes extinction

Don Flournoy 12, Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center and Don is a PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for University/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 ).

#### Diseases end civilization

David Quammen 12, award-winning science writer, long-time columnist for Outside magazine for fifteen years, with work in National Geographic, Harper's, Rolling Stone, the New York Times Book Review and other periodicals, 9/29, “Could the next big animal-to-human disease wipe us out?,” The Guardian, pg. 29, Lexis

Infectious disease is all around us. It's one of the basic processes that ecologists study, along with predation and competition. Predators are big beasts that eat their prey from outside. Pathogens (disease-causing agents, such as viruses) are small beasts that eat their prey from within. Although infectious disease can seem grisly and dreadful, under ordinary conditions, it's every bit as natural as what lions do to wildebeests and zebras. But conditions aren't always ordinary. Just as predators have their accustomed prey, so do pathogens. And just as a lion might occasionally depart from its normal behaviour - to kill a cow instead of a wildebeest, or a human instead of a zebra - so a pathogen can shift to a new target. Aberrations occur. When a pathogen leaps from an animal into a person, and succeeds in establishing itself as an infectious presence, sometimes causing illness or death, the result is a zoonosis. It's a mildly technical term, zoonosis, unfamiliar to most people, but it helps clarify the biological complexities behind the ominous headlines about swine flu, bird flu, Sars, emerging diseases in general, and the threat of a global pandemic. It's a word of the future, destined for heavy use in the 21st century. Ebola and Marburg are zoonoses. So is bubonic plague. So was the so-called Spanish influenza of 1918-1919, which had its source in a wild aquatic bird and emerged to kill as many as 50 million people. All of the human influenzas are zoonoses. As are monkeypox, bovine tuberculosis, Lyme disease, West Nile fever, rabies and a strange new affliction called Nipah encephalitis, which has killed pigs and pig farmers in Malaysia. Each of these zoonoses reflects the action of a pathogen that can "spillover", crossing into people from other animals. Aids is a disease of zoonotic origin caused by a virus that, having reached humans through a few accidental events in western and central Africa, now passes human-to-human. This form of interspecies leap is not rare; about 60% of all human infectious diseases currently known either cross routinely or have recently crossed between other animals and us. Some of those - notably rabies - are familiar, widespread and still horrendously lethal, killing humans by the thousands despite centuries of efforts at coping with their effects. Others are new and inexplicably sporadic, claiming a few victims or a few hundred, and then disappearing for years. Zoonotic pathogens can hide. The least conspicuous strategy is to lurk within what's called a reservoir host: a living organism that carries the pathogen while suffering little or no illness. When a disease seems to disappear between outbreaks, it's often still lingering nearby, within some reservoir host. A rodent? A bird? A butterfly? A bat? To reside undetected is probably easiest wherever biological diversity is high and the ecosystem is relatively undisturbed. The converse is also true: ecological disturbance causes diseases to emerge. Shake a tree and things fall out. Michelle Barnes is an energetic, late 40s-ish woman, an avid rock climber and cyclist. Her auburn hair, she told me cheerily, came from a bottle. It approximates the original colour, but the original is gone. In 2008, her hair started falling out; the rest went grey "pretty much overnight". This was among the lesser effects of a mystery illness that had nearly killed her during January that year, just after she'd returned from Uganda. Her story paralleled the one Jaap Taal had told me about Astrid, with several key differences - the main one being that Michelle Barnes was still alive. Michelle and her husband, Rick Taylor, had wanted to see mountain gorillas, too. Their guide had taken them through Maramagambo Forest and into Python Cave. They, too, had to clamber across those slippery boulders. As a rock climber, Barnes said, she tends to be very conscious of where she places her hands. No, she didn't touch any guano. No, she was not bumped by a bat. By late afternoon they were back, watching the sunset. It was Christmas evening 2007. They arrived home on New Year's Day. On 4 January, Barnes woke up feeling as if someone had driven a needle into her skull. She was achy all over, feverish. "And then, as the day went on, I started developing a rash across my stomach." The rash spread. "Over the next 48 hours, I just went down really fast." By the time Barnes turned up at a hospital in suburban Denver, she was dehydrated; her white blood count was imperceptible; her kidneys and liver had begun shutting down. An infectious disease specialist, Dr Norman K Fujita, arranged for her to be tested for a range of infections that might be contracted in Africa. All came back negative, including the test for Marburg. Gradually her body regained strength and her organs began to recover. After 12 days, she left hospital, still weak and anaemic, still undiagnosed. In March she saw Fujita on a follow-up visit and he had her serum tested again for Marburg. Again, negative. Three more months passed, and Barnes, now grey-haired, lacking her old energy, suffering abdominal pain, unable to focus, got an email from a journalist she and Taylor had met on the Uganda trip, who had just seen a news article. In the Netherlands, a woman had died of Marburg after a Ugandan holiday during which she had visited a cave full of bats. Barnes spent the next 24 hours Googling every article on the case she could find. Early the following Monday morning, she was back at Dr Fujita's door. He agreed to test her a third time for Marburg. This time a lab technician crosschecked the third sample, and then the first sample. The new results went to Fujita, who called Barnes: "You're now an honorary infectious disease doctor. You've self-diagnosed, and the Marburg test came back positive." The Marburg virus had reappeared in Uganda in 2007. It was a small outbreak, affecting four miners, one of whom died, working at a site called Kitaka Cave. But Joosten's death, and Barnes's diagnosis, implied a change in the potential scope of the situation. That local Ugandans were dying of Marburg was a severe concern - sufficient to bring a response team of scientists in haste. But if tourists, too, were involved, tripping in and out of some python-infested Marburg repository, unprotected, and then boarding their return flights to other continents, the place was not just a peril for Ugandan miners and their families. It was also an international threat. The first team of scientists had collected about 800 bats from Kitaka Cave for dissecting and sampling, and marked and released more than 1,000, using beaded collars coded with a number. That team, including scientist Brian Amman, had found live Marburg virus in five bats. Entering Python Cave after Joosten's death, another team of scientists, again including Amman, came across one of the beaded collars they had placed on captured bats three months earlier and 30 miles away. "It confirmed my suspicions that these bats are moving," Amman said - and moving not only through the forest but from one roosting site to another. Travel of individual bats between far-flung roosts implied circumstances whereby Marburg virus might ultimately be transmitted all across Africa, from one bat encampment to another. It voided the comforting assumption that this virus is strictly localised. And it highlighted the complementary question: why don't outbreaks of Marburg virus disease happen more often? Marburg is only one instance to which that question applies. Why not more Ebola? Why not more Sars? In the case of Sars, the scenario could have been very much worse. Apart from the 2003 outbreak and the aftershock cases in early 2004, it hasn't recurred. . . so far. Eight thousand cases are relatively few for such an explosive infection; 774 people died, not 7 million. Several factors contributed to limiting the scope and impact of the outbreak, of which humanity's good luck was only one. Another was the speed and excellence of the laboratory diagnostics - finding the virus and identifying it. Still another was the brisk efficiency with which cases were isolated, contacts were traced and quarantine measures were instituted, first in southern China, then in Hong Kong, Singapore, Hanoi and Toronto. If the virus had arrived in a different sort of big city - more loosely governed, full of poor people, lacking first-rate medical institutions - it might have burned through a much larger segment of humanity. One further factor, possibly the most crucial, was inherent in the way Sars affects the human body: symptoms tend to appear in a person before, rather than after, that person becomes highly infectious. That allowed many Sars cases to be recognised, hospitalised and placed in isolation before they hit their peak of infectivity. With influenza and many other diseases, the order is reversed. That probably helped account for the scale of worldwide misery and death during the 1918-1919 influenza. And that infamous global pandemic occurred in the era before globalisation. Everything nowadays moves around the planet faster, including viruses. When the Next Big One comes, it will likely conform to the same perverse pattern as the 1918 influenza: high infectivity preceding notable symptoms. That will help it move through cities and airports like an angel of death. The Next Big One is a subject that disease scientists around the world often address. The most recent big one is Aids, of which the eventual total bigness cannot even be predicted - about 30 million deaths, 34 million living people infected, and with no end in sight. Fortunately, not every virus goes airborne from one host to another. If HIV-1 could, you and I might already be dead. If the rabies virus could, it would be the most horrific pathogen on the planet. The influenzas are well adapted for airborne transmission, which is why a new strain can circle the world within days. The Sars virus travels this route, too, or anyway by the respiratory droplets of sneezes and coughs - hanging in the air of a hotel corridor, moving through the cabin of an aeroplane - and that capacity, combined with its case fatality rate of almost 10%, is what made it so scary in 2003 to the people who understood it best. Human-to-human transmission is the crux. That capacity is what separates a bizarre, awful, localised, intermittent and mysterious disease (such as Ebola) from a global pandemic. Have you noticed the persistent, low-level buzz about avian influenza, the strain known as H5N1, among disease experts over the past 15 years? That's because avian flu worries them deeply, though it hasn't caused many human fatalities. Swine flu comes and goes periodically in the human population (as it came and went during 2009), sometimes causing a bad pandemic and sometimes (as in 2009) not so bad as expected; but avian flu resides in a different category of menacing possibility. It worries the flu scientists because they know that H5N1 influenza is extremely virulent in people, with a high lethality. As yet, there have been a relatively low number of cases, and it is poorly transmissible, so far, from human to human. It'll kill you if you catch it, very likely, but you're unlikely to catch it except by butchering an infected chicken. But if H5N1 mutates or reassembles itself in just the right way, if it adapts for human-to-human transmission, it could become the biggest and fastest killer disease since 1918. It got to Egypt in 2006 and has been especially problematic for that country. As of August 2011, there were 151 confirmed cases, of which 52 were fatal. That represents more than a quarter of all the world's known human cases of bird flu since H5N1 emerged in 1997. But here's a critical fact: those unfortunate Egyptian patients all seem to have acquired the virus directly from birds. This indicates that the virus hasn't yet found an efficient way to pass from one person to another. Two aspects of the situation are dangerous, according to biologist Robert Webster. The first is that Egypt, given its recent political upheavals, may be unable to staunch an outbreak of transmissible avian flu, if one occurs. His second concern is shared by influenza researchers and public health officials around the globe: with all that mutating, with all that contact between people and their infected birds, the virus could hit upon a genetic configuration making it highly transmissible among people. "As long as H5N1 is out there in the world," Webster told me, "there is the possibility of disaster. . . There is the theoretical possibility that it can acquire the ability to transmit human-to-human." He paused. "And then God help us." We're unique in the history of mammals. No other primate has ever weighed upon the planet to anything like the degree we do. In ecological terms, we are almost paradoxical: large-bodied and long-lived but grotesquely abundant. We are an outbreak. And here's the thing about outbreaks: they end. In some cases they end after many years, in others they end rather soon. In some cases they end gradually, in others they end with a crash. In certain cases, they end and recur and end again. Populations of tent caterpillars, for example, seem to rise steeply and fall sharply on a cycle of anywhere from five to 11 years. The crash endings are dramatic, and for a long while they seemed mysterious. What could account for such sudden and recurrent collapses? One possible factor is infectious disease, and viruses in particular.

#### Judicial involvement is key to the credibility of detention decisions

Matthew C Waxman 9, Professor of Law; Faculty Chair, Roger Hertog Program on Law and National Security, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book

Judicial review can help safeguard liberty and enhance the credibility at home and abroad of administrative detention decisions by ensuring the neutrality of the decisionmaker and publicly certifying the legality of the detention in question. Most calls for reform of existing detention laws start with a 47 strong role for courts. Some commentators believe that a special court is needed, perhaps a “national security court” made up of designated judges who would build expertise in terrorism cases over time. 16 Others suggest that the Foreign Intelligence Surveillance Court already has judges with expertise in handling sensitive intelligence matters and mechanisms in place to ensure secrecy, so its jurisdiction ought to be expanded to handle detention cases. 17 Still others insist that specialized terrorism courts are dangerous; the legitimacy of a detention system can best be ensured by giving regular, generalist judges a say in each decision. ¶ Adversarial process and access to attorneys can help further protect liberty and enhance the perceived legitimacy of detention systems. As with judicial review, however, proposals tend to split over how best to organize and ensure that process. Some argue that habeas corpus suits are the best check on administrative detention. 18 Others argue that administrative detention decisions should be contested at an early stage by a lawyer of the detainee’s choosing. 19 Still others recognize an imperative need for secrecy and deep expertise in terrorism and intelligence matters that calls for designating a special “defense bar” operated by the government on detainees’ behalf.¶ The issue of secrecy runs in tension with a third common element of procedural and institutional reform proposals: openness and transparency. The Bush administration’s approach was considered by some to be prone to error in part because of its excessive secrecy and hostility to the prying courts and Congress as well as to the press and advocacy groups. Critics and reformists argue that hearings should be open or at least partially open and that judgments should be written so that they can be scrutinized later by the public or congressional oversight committees; that, they claim, would help put pressure on the executive branch to exercise greater care in deciding which detention cases to pursue and put pressure on adjudicators to act in good faith and with more diligence.¶ These three elements of procedural design reform— judicial review, adversarial process, and transparency— may help reduce the likelihood of mistakes and restore the credibility of detention decisionmaking. Rarely, though, do the discussions pause long on the antecedent question of what it is that the courts— however constituted— will evaluate. Judicial review of what? A meaningful opportunity to contest what with the assistance of counsel? Transparent determinations of what?

### 1AC---DEMOCRACY

#### CONTENTION 2 IS DEMOCRACY

#### Democratic liberalism is backsliding now---the US model of an unrestrained executive causes collapse

Larry Diamond 9, Professor of Political Science and Sociology @ Stanford, “The Impact of the Global Financial Crisis on Democracy”, Presented to the SAIS-CGD Conference on New Ideas in Development after the Financial Crisis, Conference Paper that can be found on his Vita

Concern about the future of democracy is further warranted by the gathering signs of a democratic recession, even before the onset of the global economic recession. During the past decade, the global expansion of democracy has essentially leveled off and hit an equilibrium While freedom (political rights and civil liberties) continued to expand throughout the post-Cold War era, that progress also halted in 2006, and 2007 and 2008 were the worst consecutive years for freedom since the end of the Cold War, with the number of countries declining in freedom greatly outstripping the number that improved. Two-thirds of all the breakdowns of democracy since the third wave began in 1974 have occurred in the last nine years, and in a number of strategically important states like Russia, Nigeria, Venezuela, Pakistan and Thailand. Many of these countries have not really returned to democracy. And a number of countries linger in a twilight zone between democracy and authoritarianism. While normative support for democracy has grown around the world, it remains in many countries, tentative and uneven, or is even eroding under the weight of growing public cynicism about corruption and the self-interested behavior of parties and politicians. Only about half of the public, on average, in Africa and Asia meets a rigorous, multidimensional test of support for democracy. Levels of distrust for political institutions—particularly political parties and legislatures, and politicians in general—are very high in Eastern Europe and Latin America, and in parts of Asia. In many countries, 30-50 percent of the public or more is willing to consider some authoritarian alternative to democracy, such as military or one-man rule. And where governance is bad or elections are rigged and the public cannot rotate leaders out of power, skepticism and defection from democracy grow. Of the roughly 80 new democracies that have emerged during the third wave and are still standing, probably close to three-quarters are insecure and could run some risk of reversal during adverse global and domestic circumstances. Less at risk—and probably mostly consolidated—are the more established developing country democracies (India, Costa Rica, Botswana, Mauritius), and the more liberal democracies of this group: the ten postcommunist states that have been admitted to the EU; Korea and Taiwan; Chile, Uruguay, Panama, Brazil, probably Argentina; a number of liberal island states in the Caribbean and Pacific. This leaves about 50 democracies and near democracies—including such big and strategically important states as Turkey, Ukraine, Indonesia, the Philippines, South Africa, certainly Pakistan and Bangladesh, and possibly even Mexico—where the survival of constitutional rule cannot be taken for granted. In some of these countries, like South Africa, the demise of democracy would probably come, if it happened, not as a result of a blatant overthrow of the current system, but rather via a gradual executive strangling of political pluralism and freedom, or a steady decline in state capacity and political order due to rising criminal and ethnic violence. Such circumstances would also swallow whatever hopes exist for the emergence of genuine democracy in countries like Iraq and Afghanistan and for the effective restoration of democracy in countries like Thailand and Nepal.

#### Democratic transitions are hanging in the balance---only empowering checks on executive power through rule of law can tip the scales

CJA 4 The Center for Justice and Accountability, Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10, Lexis

Many of the newly independent governments that have proliferated over the past five decades have adopted these ideals. They have emerged from a variety of less-than-free contexts, including the end of European colonial rule in the 1950's and 1960's, the end of the Cold War and the breakup of the former Soviet Union in the late 1980's and 1990's, the disintegration of Yugoslavia, and the continuing turmoil in parts of Africa, Latin America and southern Asia. Some countries have successfully transitioned to stable and democratic forms of government that protect individual freedoms and human rights by means of judicial review by a strong and independent judiciary. Others have suffered the rise of tyrannical and oppressive rulers who consolidated their hold on power in part by diminishing or abolishing the role of the judiciary. And still others hang in the balance, struggling against the onslaught of tyrants to establish stable, democratic governments. In their attempts to shed their tyrannical pasts and to ensure the protection of individual rights, emerging democracies have consistently looked to the United States and its Constitution in fashioning frameworks that safeguard the independence of their judiciaries . See Ran Hirschl, The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions, 25 Law & Soc. Inquiry 91, 92 (2000) (stating that of the “[m]any countries . . . [that] have engaged in fundamental constitutional reform over the past three decades,” nearly all adopted “a bill of rights and establishe[d] some form of active judicial review”). Establishing judicial review by a strong and independent judiciary is a critical step in stabilizing and protecting these new democracies. See Christopher M. Larkins, Judicial Independence and Democratization: A Theoretical and Conceptual Analysis, 44 Am. J. Comp. L. 605, 605-06 (1996) (describing the judicial branch as having "a uniquely important role" in transitional countries, not only to "mediate conflicts between political actors but also [to] prevent the arbitrary exercise of government power; see also Daniel C. Prefontaine and Joanne Lee, The Rule of Law and the Independence of the Judiciary, International Centre for Criminal Law Reform and Criminal Justice Policy (1998) ("There is increasing acknowledgment that an independent judiciary is the key to upholding the rule of law in a free society . . . . Most countries in transition from dictatorships and/or statist economies recognize the need to create a more stable system of governance, based on the rule of law."), available at http://www.icclr.law.ubc.ca/Publications/Reports/RuleofLaw. pdf (last visited Jan. 8, 2004). Although the precise form of government differs among countries, “they ultimately constitute variations within, not from, the American model of constitutionalism . . . [a] specific set of fundamental rights and liberties has the status of supreme law, is entrenched against amendment or repeal . . . and is enforced by an independent court . . . .” Stephen Gardbaum, The New Commonwealth Model of Constitutionalism, 49 Am. J. Comp. L. 707, 718 (2001). This phenomenon became most notable worldwide after World War II when certain countries, such as Germany, Italy, and Japan, embraced independent judiciaries following their bitter experiences under totalitarian regimes. See id. at 714- 15; see also United States v. Then, 56 F.3d 464, 469 (2d Cir. 1995) (Calabresi, J., concurring) (“Since World War II, many countries have adopted forms of judicial review, which — though different from ours in many particulars — unmistakably draw their origin and inspiration from American constitutional theory and practice. See generally Mauro Cappelletti, The Judicial Process in Comparative Perspective (Oxford: Clarendon Press, 1989).”). It is a trend that continues to this day. It bears mention that the United States has consistently affirmed and encouraged the establishment of independent judiciaries in emerging democracies. In September 2000, President Clinton observed that "[w]ithout the rule of law, elections simply offer a choice of dictators. . . . America's experience should be put to use to advance the rule of law, where democracy's roots are looking for room and strength to grow." Remarks at Georgetown University Law School, 36 Weekly Comp. Pres. Doc. 2218 (September 26, 2000), available at http://clinton6.nara.gov/2000/09/2000-09-26- remarks-by-president-at-georgetown-international-lawcenter. html. The United States acts on these principles in part through the assistance it provides to developing nations. For example, the United States requires that any country seeking assistance through the Millenium Challenge Account, a development assistance program instituted in 2002, must demonstrate, among other criteria, an "adherence to the rule of law." The White House noted that the rule of law is one of the "essential conditions for successful development" of these countries. See http://www.whitehouse.gov/infocus/developingnations (last visited Jan. 8, 2004).12

#### US detention policy is key---it has justified democratic backsliding globally

CJA 4 The Center for Justice and Accountability, Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10, Lexis

While much of the world is moving to adopt the institutions necessary to secure individual rights, many still regularly abuse these rights. One of the hallmarks of tyranny is the lack of a strong and independent judiciary. Not surprisingly, where countries make the sad transition to tyranny, one of the first victims is the judiciary. Many of the rulers that go down that road justify their actions on the basis of national security and the fight against terrorism, and, disturbingly, many claim to be modeling their actions on the United States. Again, a few examples illustrate this trend. In Peru, one of former President Alberto Fujimori’s first acts in seizing control was to assume direct executive control of the judiciary, claiming that it was justified by the threat of domestic terrorism. He then imprisoned thousands, refusing the right of the judiciary to intervene. International Commission of Jurists, Attacks on Justice 2000-Peru, August 13, 2001, available at ttp://www.icj.org/news.php3?id\_article=2587&lang=en (last visited Jan. 8, 2004). In Zimbabwe, President Mugabe’s rise to dictatorship has been punctuated by threats of violence to and the co-opting of the judiciary. He now enjoys virtually total control over Zimbabweans' individual rights and the entire political system. R.W. Johnson, Mugabe’s Agents in Plot to Kill Opposition Chief, Sunday Times (London), June 10, 2001; International Commission of Jurists, Attacks on Justice 2002— Zimbabwe, August 27, 2002, available at http://www.icj.org/news.php3?id\_article=2695〈=en (last visited Jan. 8, 2004). While Peru and Zimbabwe represent an extreme, the independence of the judiciary is under assault in less brazen ways in a variety of countries today. A highly troubling aspect of this trend is the fact that in many of these instances those perpetuating the assaults on the judiciary have pointed to the United States’ model to justify their actions. Indeed, many have specifically referenced the United States’ actions in detaining persons in Guantánamo Bay. For example, Rais Yatim, Malaysia's "de facto law minister" explicitly relied on the detentions at Guantánamo to justify Malaysia's detention of more than 70 suspected Islamic militants for over two years. Rais stated that Malyasia's detentions were "just like the process in Guantánamo," adding, "I put the equation with Guantánamo just to make it graphic to you that this is not simply a Malaysian style of doing things." Sean Yoong, "Malaysia Slams Criticism of Security Law Allowing Detention Without Trial," Associated Press, September 9, 2003 (available from Westlaw at 9/9/03 APWIRES 09 :34:00). Similarly, when responding to a United States Government human rights report that listed rights violations in Namibia, Namibia's Information Permanent Secretary Mocks Shivute cited the Guantánamo Bay detentions, claiming that "the US government was the worst human rights violator in the world." BBC Monitoring, March 8, 2002, available at 2002 WL 15938703. Nor is this disturbing trend limited to these specific examples. At a recent conference held at the Carter Center in Atlanta, President Carter, specifically citing the Guantánamo Bay detentions, noted that the erosion of civil liberties in the United States has "given a blank check to nations who are inclined to violate human rights already." Doug Gross, "Carter: U.S. human rights missteps embolden foreign dictators," Associated Press Newswires, November 12, 2003 (available from Westlaw at 11/12/03 APWIRES 00:30:26). At the same conference, Professor Saad Ibrahim of the American University in Cairo (who was jailed for seven years after exposing fraud in the Egyptian election process) said, "Every dictator in the world is using what the United States has done under the Patriot Act . . . to justify their past violations of human rights and to declare a license to continue to violate human rights." Id. Likewise, Shehu Sani, president of the Kaduna, Nigeriabased Civil Rights Congress, wrote in the International Herald Tribune on September 15, 2003 that "[t]he insistence by the Bush administration on keeping Taliban and Al Quaeda captives in indefinite detention in Guantánamo Bay, Cuba, instead of in jails in the United States — and the White House's preference for military tribunals over regular courts — helps create a free license for tyranny in Africa. It helps justify Egypt's move to detain human rights campaigners as threats to national security and does the same for similar measures by the governments of Ivory Coast, Cameroon and Burkina Faso." Available at http://www.iht.com/ihtsearch.php?id=109927&owner=(IHT)&dat e=20030121123259. In our uni-polar world, the United States obviously sets an important example on these issues. As reflected in the foundational documents of the United Nations and many other such agreements, the international community has consistently affirmed the value of an independent judiciary to the defense of universally recognized human rights. In the crucible of actual practice within nations, many have looked to the United States model when developing independent judiciaries with the ability to check executive power in the defense of individual rights. Yet others have justified abuses by reference to the conduct of the United States. Far more influential than the words of Montesquieu and Madison are the actions of the United States. This case starkly presents the question of which model this Court will set for the world.

#### The plan reaffirms US commitment to the rule of law---modeled

Charles Swift 08, Navy's Lt. Commander and JAG lawyer in the Hamdan vs Rumsfeld, November 25, "The American Way of Justice," Esquire, www.esquire.com/features/ESQ0307swift-5

If we are to be a great nation, then we must be willing to be a nation bound by the rule of law in our treatment of all people. That means we have to be willing to be held accountable for our past actions. That means giving each detainee the fair and neutral hearing that was set out by the Supreme Court in another recent decision (Hamdan v. Rumsfeld). That means holding regular criminal trials as required by the Supreme Court in Hamdan. That means using something other than coerced confessions to convict our enemies. That means closing Guantánamo Bay, because in a nation dedicated to the rule of law, there is no need for a legal black hole.¶ Both Guantánamo Bay and the Military Commissions Act were deemed necessary because of a decision to interrogate prisoners in violation of both domestic and international law. To interrogate a handful of religious fanatics, we created this legal black hole and turned our back on 250 years of our jurisprudence. This is not a problem that can be fixed by trying to change the law after the fact in an effort to cover up what we did. This is not a problem that can be fixed by cutting off access to the courts so that we will not be held accountable. This is not a problem that can be fixed by building a $125 million court complex in an effort to create an illusion of justice. None of those things will solve the problem, because it is not a problem at all. As Dr. Kissinger might say, it is a dilemma. The question is not, Will we survive Guantánamo, because of course we will survive Guantánamo. The question is: Will we survive Guantánamo as a great nation?¶ When I was a kid, my father was a forest scientist, and we began to have a scientific exchange with Russia under Nixon, and these Russian scientists would come and stay with us. They were fascinated with toasters. They didn't have toasters. My mom had one. She pushed it down, the bread popped up toasted. They liked toast. They wanted a toaster, badly. They wanted a better life. It's what every human being wants for his children.¶ When I was in Yemen, I went to Hamdan's house with a female attorney. On the next-to-last night the grandmother called all the little girls living in the house together. There had to have been at least ten of them. They all had on blue jeans and tennis shoes and little T-shirts with Care Bears. It's not a rich family, but they're clean and they're dressed well and they look like little girls the world over. Their faces are shining and their eyes are bright and so full of promise. The grandmother pointed at my colleague and said, "She went to school and studied very, very hard and she got very good grades, and now she's a lawyer." And then she looked at them and said, "If you go to school and study very, very hard, you can be anything."¶ The toaster in my mother's kitchen was tangible evidence to the Soviet scientists that democracy and capitalism created a better life. Ultimately, the people of the Soviet Union saw what we had and rejected communism. The grandmother in Yemen wants her granddaughters to be treated not as rightless, faceless women but as people. If we are about equal rights, then the grandmother is with us.¶ President Ronald Reagan was right: In our best moments we are the shining city on the hill. The world is angry with us because they think we've failed in that promise. But if we are committed to the rule of law and remain faithful to our principles, then America will be a beacon to that grandmother, and her promise will have a chance of coming true.

#### Global democratic transitions are inevitable---the only way for the US to bolster democracies is constitutionalism---prevents war

Fareed Zakaria 97, PhD Poli Sci @ Harvard, Managing Editor of Foreign Affairs, 1997, Lexis

Of course cultures vary, and different societies will require different frameworks of government. This is not a plea for the wholesale adoption of the American way but rather for a more variegated conception of liberal democracy, one that emphasizes both parts of that phrase. Before new policies can be adopted, there lies an intellectual task of recovering the constitutional liberal tradition, central to the Western experience and to the development of good government throughout the world. Political progress in Western history has been the result of a growing recognition over the centuries that, as the Declaration of Independence puts it, human beings have "certain inalienable rights" and that "it is to secure these rights that governments are instituted." If a democracy does not preserve liberty and law, that it is a democracy is a small consolation. LIBERALIZING FOREIGN POLICY A proper appreciation of constitutional liberalism has a variety of implications for American foreign policy. First, it suggests a certain humility. While it is easy to impose elections on a country, it is more difficult to push constitutional liberalism on a society. The process of genuine liberalization and democratization is gradual and long-term, in which an election is only one step. Without appropriate preparation, it might even be a false step. Recognizing this, governments and nongovernmental organizations are increasingly promoting a wide array of measures designed to bolster constitutional liberalism in developing countries. The National Endowment for Democracy promotes free markets, independent labor movements, and political parties. The U.S. Agency for International Development funds independent judiciaries. In the end, however, elections trump everything. If a country holds elections, Washington and the world will tolerate a great deal from the resulting government, as they have with Yeltsin, Akayev, and Menem. In an age of images and symbols, elections are easy to capture on film. (How do you televise the rule of law?) But there is life after elections, especially for the people who live there. Conversely, the absence of free and fair elections should be viewed as one flaw, not the definition of tyranny. Elections are an important virtue of governance, but they are not the only virtue. Governments should be judged by yardsticks related to constitutional liberalism as well. Economic, civil, and religious liberties are at the core of human autonomy and dignity. If a government with limited democracy steadily expands these freedoms, it should not be branded a dictatorship. Despite the limited political choice they offer, countries like Singapore, Malaysia, and Thailand provide a better environment for the life, liberty, and happiness of their citizens than do either dictatorships like Iraq and Libya or illiberal democracies like Slovakia or Ghana. And the pressures of global capitalism can push the process of liberalization forward. Markets and morals can work together. Even China, which remains a deeply repressive regime, has given its citizens more autonomy and economic liberty than they have had in generations. Much more needs to change before China can even be called a liberalizing autocracy, but that should not mask the fact that much has changed. Finally, we need to revive constitutionalism. One effect of the overemphasis on pure democracy is that little effort is given to creating imaginative constitutions for transitional countries. Constitutionalism, as it was understood by its greatest eighteenth century exponents, such as Montesquieu and Madison, is a complicated system of checks and balances designed to prevent the accumulation of power and the abuse of office. This is done not by simply writing up a list of rights but by constructing a system in which government will not violate those rights. Various groups must be included and empowered because, as Madison explained, "ambition must be made to counteract ambition." Constitutions were also meant to tame the passions of the public, creating not simply democratic but also deliberative government. Unfortunately, the rich variety of unelected bodies, indirect voting, federal arrangements, and checks and balances that characterized so many of the formal and informal constitutions of Europe are now regarded with suspicion. What could be called the Weimar syndrome -- named after interwar Germany's beautifully constructed constitution, which failed to avert fascism -- has made people regard constitutions as simply paperwork that cannot make much difference. (As if any political system in Germany would have easily weathered military defeat, social revolution, the Great Depression, and hyperinflation.) Procedures that inhibit direct democracy are seen as inauthentic, muzzling the voice of the people. Today around the world we see variations on the same majoritarian theme. But the trouble with these winner-take-all systems is that, in most democratizing countries, the winner really does take all. DEMOCRACY'S DISCONTENTS We live in a democratic age. Through much of human history the danger to an individual's life, liberty and happiness came from the absolutism of monarchies, the dogma of churches, the terror of dictatorships, and the iron grip of totalitarianism. Dictators and a few straggling totalitarian regimes still persist, but increasingly they are anachronisms in a world of global markets, information, and media. There are no longer respectable alternatives to democracy; it is part of the fashionable attire of modernity. Thus the problems of governance in the 21st century will likely be **problems within democracy**. This makes them more difficult to handle, wrapped as they are in the mantle of legitimacy. Illiberal democracies gain legitimacy, and thus strength, from the fact that they are reasonably democratic. Conversely, the greatest danger that illiberal democracy poses -- other than to its own people -- is that it will discredit liberal democracy itself, casting a shadow on democratic governance. This would not be unprecedented. Every wave of democracy has been followed by setbacks in which the system was seen as inadequate and new alternatives were sought by ambitious leaders and restless masses. The last such period of disenchantment, in Europe during the interwar years, was seized upon by demagogues, many of whom were initially popular and even elected. Today, in the face of a spreading virus of illiberalism, the most useful role that the international community, and most importantly the United States, can play is -- instead of searching for new lands to democratize and new places to hold elections -- to consolidate democracy where it has taken root and to encourage the gradual development of constitutional liberalism across the globe. Democracy without constitutional liberalism is not simply inadequate, but dangerous, bringing with it the erosion of liberty, the abuse of power, ethnic divisions, and even war. Eighty years ago, Woodrow Wilson took America into the twentieth century with a challenge, to make the world safe for democracy. As we approach the next century, our task is to make democracy safe for the world.

#### Democratic backsliding causes great power war

Azar Gat 11, the Ezer Weizman Professor of National Security at Tel Aviv University, 2011, “The Changing Character of War,” in The Changing Character of War, ed. Hew Strachan and Sibylle Scheipers, p. 30-32

Since 1945, the decline of major great power war has deepened further. Nuclear weapons have concentrated the minds of all concerned wonderfully, but no less important have been the institutionalization of free trade and the closely related process of rapid and sustained economic growth throughout the capitalist world. The communist bloc did not participate in the system of free trade, but at least initially it too experienced substantial growth, and, unlike Germany and Japan, it was always sufﬁciently large and rich in natural resources to maintain an autarky of sorts. With the Soviet collapse and with the integration of the former communist powers into the global capitalist economy, the prospect of a major war within the developed world seems to have become very remote indeed. This is one of the main sources for the feeling that war has been transformed: its geopolitical centre of gravity has shifted radically. The modernized, economically developed parts of the world constitute a ‘zone of peace’. War now seems to be conﬁned to the less-developed parts of the globe, the world’s ‘zone of war’, where countries that have so far failed to embrace modernization and its pacifying spin-off effects continue to be engaged in wars among themselves, as well as with developed countries.¶ While the trend is very real, one wonders if the near disappearance of armed conﬂict within the developed world is likely to remain as stark as it has been since the collapse of communism. The post-Cold War moment may turn out to be a ﬂeeting one. The probability of major wars within the developed world remains low—because of the factors already mentioned: increasing wealth, economic openness and interdependence, and nuclear deterrence. But the deep sense of change prevailing since 1989 has been based on the far more radical notion that the triumph of capitalism also spelled the irresistible ultimate victory of democracy; and that in an afﬂuent and democratic world, major conﬂict no longer needs to be feared or seriously prepared for. This notion, however, is fast eroding with the return of capitalist non-democratic great powers that have been absent from the international system since 1945. Above all, there is the formerly communist and fast industrializing authoritarian-capitalist China, whose massive growth represents the greatest change in the global balance of power. Russia, too, is retreating from its postcommunist liberalism and assuming an increasingly authoritarian character.¶ Authoritarian capitalism may be more viable than people tend to assume. 8 The communist great powers failed even though they were potentially larger than the democracies, because their economic systems failed them. By contrast, the capitalist authoritarian/totalitarian powers during the ﬁrst half of the twentieth century, Germany and Japan, particularly the former, were as efﬁcient economically as, and if anything more successful militarily than, their democratic counterparts. They were defeated in war mainly because they were too small and ultimately succumbed to the exceptional continental size of the United States (in alliance with the communist Soviet Union during the Second World War). However, the new non-democratic powers are both large and capitalist. China in particular is the largest player in the international system in terms of population and is showing spectacular economic growth that within a generation or two is likely to make it a true non-democratic superpower.¶ Although the return of capitalist non-democratic great powers does not necessarily imply open conﬂict or war, it might indicate that the democratic hegemony since the Soviet Union’s collapse could be short-lived and that a universal ‘democratic peace’ may still be far off. The new capitalist authoritarian powers are deeply integrated into the world economy. They partake of the development-open-trade-capitalist cause of peace, but not of the liberal democratic cause. Thus, it is crucially important that any protectionist turn in the system is avoided so as to prevent a grab for markets and raw materials such as that which followed the disastrous slide into imperial protectionism and conﬂict during the ﬁrst part of the twentieth century. Of course, the openness of the world economy does not depend exclusively on the democracies. In time, China itself might become more protectionist, as it grows wealthier, its labour costs rise, and its current competitive edge diminishes.¶ With the possible exception of the sore Taiwan problem, China is likely to be less restless and revisionist than the territorially conﬁned Germany and Japan were. Russia, which is still reeling from having lost an empire, may be more problematic. However, as China grows in power, it is likely to become more assertive, ﬂex its muscles, and behave like a superpower, even if it does not become particularly aggressive. The democratic and non-democratic powers may coexist more or less peacefully, albeit warily, side by side, armed because of mutual fear and suspicion, as a result of the so-called ‘security dilemma’, and against worst-case scenarios. But there is also the prospect of more antagonistic relations, accentuated ideological rivalry, potential and actual conﬂict, intensiﬁed arms races, and even new cold wars, with spheres of inﬂuence and opposing coalitions. Although great power relations will probably vary from those that prevailed during any of the great twentieth-century conﬂicts, as conditions are never quite the same, they may vary less than seemed likely only a short while ago.

#### Independently, the plan prevents eroding checks on executive power that creates global dissident crack-down

Matthew C Waxman 9, Professor of Law; Faculty Chair, Roger Hertog Program on Law and National Security, Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 58

Opponents and skeptics of administrative detention rightly point out that creating new mechanisms for detention with procedural protections that are diluted compared with those granted criminal suspects may put liberty at risk. The most obvious concern is that innocent individuals will get swept up and imprisoned— the “false positive” problem. Civil libertarians rightly worry too that aside from the specific risk to particular individuals, any expansion of administrative detention— and I say “expansion” because, as noted earlier, it already exists in some nonterrorist contexts in U.S. law— risks eroding the checks on state power more generally. To some, the idea of administrative detention of suspected terrorists is the kind of “loaded weapon” that Justice Robert Jackson worried about at the time of Japanese internment. 52 Even if critics are satisfied that the U.S. government can use administrative detention responsibly, there are many unsavory foreign regimes that will not. The United States therefore needs to be cautious about justifying principles that might be used by less democratic regimes as a pretext to crack down, for example, on dissidents that they label “terrorists” or “national security threats.”

#### Chinese crackdowns on Uighurs make them stronger and cause Asian war

Dr. Elizabeth Van Wie Davis 8, division director and professor of liberal arts and international studies at Colorado School of Mines, 2008, "Uyghur Muslim Ethnic Separatism in Xinjiang, China," Asian Affairs: An American Review, 2008, Vol. 35, Issue 1, pg. 15-30, ebsco

Alternative Futures¶ The scenario most worrisome to the Chinese would be the Uyghur Muslim movement in Xinjiang externally joining with international Muslim movements throughout Asia and the Middle East, bringing an influx of Islamic extremism and a desire to challenge the central government. The Chinese also fear the Uyghur movement could internally radicalize other minorities, whether the ethnic Tibetans or the Muslim Hui. Beijing is currently successfully managing the separatist movements in China, but the possibility of increased difficulty is linked partly to elements outside Chinese control, such as political instability or increased Islamic extremism in neighboring Pakistan, Afghanistan, Tajikistan, Kyrgyzstan, and Kazakhstan. Chinese policies and reactions, however, will largely determine the progress of separatist movements in China. If “strike hard” campaigns are seen to discriminate against nonviolent Uyghurs and if the perception that economic development in Xinjiang aids Han Chinese at the expense of Uyghurs, the separatist movements will be fueled.¶ The whole region has concerns about growing Uyghur violence. Central Asian countries, especially those with sizable Uyghur minorities, already worry about Uyghur violence and agitation. Many of the regional governments, especially secular authoritarian governments in South Asia and Central Asia, are worried about the contagion of increasing Muslim radicalization. The governments of Southeast Asia are also worried about growing radical networks and training camps, but they also fear the idea of a fragmenting China. Political instability in China would impact all of Asia.

#### Asian war goes nuclear---no defense---interdependence and institutions don’t check

C. Raja Mohan 13, distinguished fellow at the Observer Research Foundation in New Delhi, March 2013, Emerging Geopolitical Trends and Security in the Association of Southeast Asian Nations, the People’s Republic of China, and India (ACI) Region,” background paper for the Asian Development Bank Institute study on the Role of Key Emerging Economies, <http://www.iadb.org/intal/intalcdi/PE/2013/10737.pdf>

Three broad types of conventional conflict confront Asia. The first is the prospect of war between great powers. Until a rising PRC grabbed the attention of the region, there had been little fear of great power rivalry in the region. The fact that all major powers interested in Asia are armed with nuclear weapons, and the fact that there is growing economic interdependence between them, has led many to argue that great power conflict is not likely to occur. Economic interdependence, as historians might say by citing the experience of the First World War, is not a guarantee for peace in Asia. Europe saw great power conflict despite growing interdependence in the first half of the 20th century. Nuclear weapons are surely a larger inhibitor of great power wars. Yet we have seen military tensions build up between the PRC and the US in the waters of the Western Pacific in recent years. The contradiction between the PRC’s efforts to limit and constrain the presence of other powers in its maritime periphery and the US commitment to maintain a presence in the Western Pacific is real and can only deepen over time.29 We also know from the Cold War that while nuclear weapons did help to reduce the impulses for a conventional war between great powers, they did not prevent geopolitical competition. Great power rivalry expressed itself in two other forms of conflict during the Cold War: inter-state wars and intra-state conflict. If the outcomes in these conflicts are seen as threatening to one or other great power, they are likely to influence the outcome. This can be done either through support for one of the parties in the inter-state conflicts or civil wars. When a great power decides to become directly involved in a conflict the stakes are often very high. In the coming years, it is possible to envisage conflicts of all these types in the ACI region. ¶ Asia has barely begun the work of creating an institutional framework to resolve regional security challenges. Asia has traditionally been averse to involving the United Nations (UN) in regional security arrangements. Major powers like the PRC and India are not interested in “internationalizing” their security problems—whether Tibet; Taipei,China; the South China Sea; or Kashmir—and give other powers a handle. Even lesser powers have had a tradition of rejecting UN interference in their conflicts. North Korea, for example, prefers dealing with the United States directly rather than resolve its nuclear issues through the International Atomic Energy Agency and the UN. Since its founding, the involvement of the UN in regional security problems has been rare and occasional.¶ The burden of securing Asia, then, falls squarely on the region itself. There are three broad ways in which a security system in Asia might evolve: collective security, a concert of major powers, and a balance of power system.30 Collective security involves a system where all stand for one and each stands for all, in the event of an aggression. While collective security systems are the best in a normative sense, achieving them in the real world has always been difficult. A more achievable goal is “cooperative security” that seeks to develop mechanisms for reducing mutual suspicion, building confidence, promoting transparency, and mitigating if not resolving the sources of conflict. The ARF and EAS were largely conceived within this framework, but the former has disappointed while the latter has yet to demonstrate its full potential. ¶ A second, quite different, approach emphasizes the importance of power, especially military power, to deter one’s adversaries and the building of countervailing coalitions against a threatening state. A balance of power system, as many critics of the idea point out, promotes arms races, is inherently unstable, and breaks down frequently leading to systemic wars. There is growing concern in Asia that amidst the rise of Chinese military power and the perception of American decline, many large and small states are stepping up their expenditure on acquiring advanced weapons systems. Some analysts see this as a structural condition of the new Asia that must be addressed through deliberate diplomatic action. 31 A third approach involves cooperation among the great powers to act in concert to enforce a broad set of norms—falling in between the idealistic notions of collective security and the atavistic forms of balance of power. However, acting in concert involves a minimum level of understanding between the major powers. The greatest example of a concert is the one formed by major European powers in the early 18th century through the Congress of Vienna after the defeat of Napoleonic France. The problem of adapting such a system to Asia is the fact that there are many medium-sized powers who would resent any attempt by a few great powers to impose order in the region.32 In the end, the system that emerges in Asia is likely to have elements of all the three models. In the interim, though, there are substantive disputes on the geographic scope and the normative basis for a future security order in Asia.

### 1AC---Plan

**The United States Federal Government should grant jurisdiction to Article III criminal courts over individuals detained by the United States under its war powers detention policy as described in the 2001 Authorization for Use of Military Force and the relevant National Defense Authorization Acts.**

###  1AC---SOLVENCY

#### CONTENTION 3 IS SOLVENCY

#### Federal courts are critical to resolving US legitimacy abroad

Hathaway et al 13, Oona Hathaway, Gerard C. and Bernice Latrobe Smith Professor of International Law, Yale Law School, Samuel Adelsberg, Spencer Amdur, and Freya Pitts, J.D. candidates at Yale Law School, Philip Levitz and Sirine Shebaya J.D.s Yale Law School (2012), Winter, "Article: The Power To Detain: Detention of Terrorism Suspects After 9/11," The Yale Journal of International Law, 38 Yale J. Int'l L. 123, Lexis

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 unconstitutional. 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 United States that undermine the effectiveness of counterterrorism efforts. Indeed, evidence suggests that populations are more likely to cooperate in policing when they believe they have been treated fairly. 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.

#### Federal courts are the most effective method---critics are fear-mongers

Dianne Feinstein 10, U.S. Senator from California and former chairman of the Senate Intelligence Committee, April 5, "Civilian Courts Can Prosecute Terrorists," The Wall Street Journal, ProQuest

Anyone who says America's federal courts can't bring terrorists to justice is overlooking the facts. In the Dirksen U.S. Courthouse in Chicago on March 18, David Headley pleaded guilty to a dozen terror-related felonies, including helping plan the 2008 attacks in Mumbai, India, that killed 164 people. He is also providing authorities with valuable intelligence about terrorist activities, according to the Justice Department.¶ Wearing leg shackles and heavily guarded by U.S. marshals, Headley admitted to scouting sites in Mumbai for the Pakistan-based terror group Lashkar-e-Tayyiba, and to plotting to attack a Danish newspaper. He faces life imprisonment when he is eventually sentenced for his crimes.¶ His guilty plea and his cooperation are significant victories for justice and our intelligence agencies. They demonstrate that federal criminal courts -- also called Article III courts in reference to the article of the Constitution establishing the federal judiciary -- can effectively prosecute terrorists and gather intelligence.¶ Some of the most well-known terrorists of the past decade -- "Shoe Bomber" Richard Reid, "Blind Sheik" Omar Abdel Rahman and the "20th Hijacker" Zacarias Moussaoui -- are serving life sentences after being tried in Article III criminal courts. Military commissions have prosecuted just three Guantanamo detainees since 9/11. Two of these terrorists served light sentences and are free.¶ This contrast between life sentences and light sentences leaves no doubt that federal criminal courts effectively punish terrorists.¶ There may be times when a military commission is the best venue for a trial. But the president should have the flexibility to choose which system in which to prosecute. The decision should hinge on which system is most likely to produce actionable intelligence, protect our national security, bring terrorists to justice quickly, and keep them behind bars for good. Prosecutions in Article III courts can achieve all of these objectives.¶ For example, Najibullah Zazi, accused of plotting to bomb New York City's subway system, pleaded guilty in federal court on Feb. 22 and is reported to be cooperating. In the case of 9/11 mastermind Khalid Sheikh Mohammed, the attorney general is confident that prosecutors can secure a conviction and a death sentence in federal court.¶ Hundreds of international terrorists have been convicted in our federal courts since 9/11 and are locked away in heavily fortified federal prisons. Federal courts are tried, tested and capable of dealing with extremely dangerous defendants and classified intelligence. In contrast, military commissions are slow, untested and have not yet overseen a death penalty trial since 9/11.¶ President Obama's fear-mongering critics make three false accusations in their bid to discredit America's federal courts:¶ -- First, they claim terrorists will have access to classified evidence. But the Classified Information Procedures Act sets up a process for federal judges to protect classified information during terrorist trials. The rules for how military commissions treat classified information are based on the rules used in federal criminal courts.¶ -- Second, they claim federal prosecutors can't properly try terrorists. Yet federal prosecutors have more experience handling terrorists than anyone else. According to a Bush-era Department of Justice document, "Since September 11, 2001, the Department has charged 512 individuals with terrorism or terrorism-related crimes and convicted or obtained guilty pleas in 319 terrorism-related and anti-terrorism cases." That's far more than the three convictions in military commissions.¶ -- Finally, they claim federal courts allow terrorists to take advantage of constitutional requirements for Miranda warnings and search warrants. But it is simply wrong to claim that a search warrant is required to obtain physical evidence from overseas, or that a criminal prosecution requires that detainees be immediately given Miranda warnings.¶ The record speaks for itself: Our criminal justice system is very effective at punishing terrorists. Headley's guilty plea in an Article III court has provided the most recent evidence of this. Headley admitted his crimes, is providing intelligence, and is likely to spend the rest of his life in federal prison. Case closed.

#### Comprehensive research proves federal courts solve

Richard B. Zabel and James J. Benjamin, Jr. 08, Deputy U.S. Attorney for the Southern District of New York AND partner in the New York office of Akin Gump Strause Hauer & Feld LLP, May, "In Pursuit of Justice: Prosecuting Terrorism Cases in the Federal Courts," Human Rights First, https://www.humanrightsfirst.org/wp-content/uploads/pdf/080521-USLS-pursuit-justice.pdf

In preparing this White Paper, we have relied not only on legal authorities such as judicial decisions and statutes, but also on docket sheets, indictments, and motion papers filed in numerous terrorism prosecutions around the country. We have also studied the views of academics and journalists and have sought out the personal perspectives of people who have firsthand experience in the litigation of international terrorism cases. 5 Our conclusion, based on the data we have examined and our review of the key legal and practical issues, is that the criminal justice system is reasonably well- equipped to handle most international terrorism cases. Specifically, prosecuting terrorism defendants in the court system appears as a general matter to lead to just, reliable results and not to cause serious security breaches or other problems that threaten the nation’s security. Of course, challenges arise from time to time—sometimes serious ones— but most of these challenges are not unique to international terrorism cases. One implication of our conclusion that the criminal justice system serves as an effective means of convicting and incapacitating terrorists is that the need for a “national security court” that would displace the criminal justice system is not apparent. However, there are several important qualifications on our conclusion. ¶ First, we firmly agree with those who say that the criminal justice system, by itself, is not “the answer” to the problem of international terrorism. Given the magnitude and complexity of the international terrorism threat, it is plain that the government must employ a multifaceted approach involving the use of military, intelligence, diplomatic, economic, and law enforcement resources in order to address the threat of international terrorism. Managing these different efforts is a challenging task that requires flexibility and creativity on the part of the government.¶ Second, we also agree with those who note that major terrorism cases pose strains and burdens on the criminal justice system. Some of the cases have presented challenges—both legal and practical—that are virtually unprecedented. The blockbuster international terrorism cases are extraordinarily complex. Managing them successfully requires navigating through thorny legal issues as well as challenging practical problems.¶ Third, we agree with those who argue that the criminal justice system sometimes stumbles. It is susceptible to errors of all kinds and may fairly be criticized, in different cases, as being too slow, too fast, too harsh, too lenient, too subtle, too blunt, too opaque, and too transparent. Yet for all of these well-justified criticisms, experience has shown that the justice system has generally remained a workable and credible system. Indeed, the justice system has shown a key characteristic in dealing with criminal terrorism cases: adaptability. The evolution of statutes, courtroom procedures, and efforts to balance security issues with the rights of the parties reveals a challenged but flexible justice system that generally has been able to address its shortcomings. Where appropriate, we have offered our constructive criticisms of the court system and our views on still-unsettled legal questions.

#### The plan is comparatively the best method

Eric Montalvo 10, J.D. Temple University School of Law, former US Marine Corps Major and JAG Officer, Partner at Puckett and Faraj, February 26, "US can restore legitimacy with federal trials of terror suspects at Guantanamo Bay," Jurist, jurist.org/hotline/2010/02/us-can-restore-legitimacy-with-federal.php#

"The careless approach to the issues surrounding all things Guantanamo Bay is an affront to the Constitution and the credibility of our legal institutions. As the most recent "flip flop" by Attorney General Holder regarding the prosecution of Khalid Sheik Mohammed (KSM) demonstrates, the original quick and forceful end of Guantanamo has not, by association, led to the end of "indefinite detention." The apparent conundrum is fractured into two basic issues which are the venue of the trial and the forum to be used. While the decision of where and how to prosecute is one of the most hotly contested contemporary political issues, there is a way ahead that will restore legitimacy to our broken system.¶ In a perfect world the conventional wisdom among legal scholars is that the United States should use the federal court system to prosecute KSM and do so in a location that provides for security while containing costs. The Obama administration spent close to a year figuring out that the federal court system provided the most credible and effective option for prosecution, however, they failed to foresee the incredibly high security costs, political backlash, and emotional anguish brought upon New York's citizens once again. This is where the plan derailed and now the Attorney General is contemplating the placement of KSM back into military commissions system. The answer lies in the fusion of these two ideas — holding federal court at Guantanamo Bay where a virtually brand new multimillion dollar state of the art court room awaits usage.¶ The legitimacy of federal courts compared to other prevailing options is truly without question. Federal courts have repeatedly demonstrated the ability to prosecute and successfully convict numerous alleged "terrorists" such as the "shoe bomber" Richard Reid, the "American Taliban" John Walker Lindh, Jose Padilla, the Lackawanna Six, and Zacarias Moussaoui. These examples demonstrate the capacity of our federal courts to handle the unique and complex issues latent in prosecuting alleged terrorists ranging from the pursuit of capital punishment to the national security legal morass.

#### Independently, the plan reinvigorates due process in detention

Amos N. Guiora 12, Professor of Law, S.J. Quinney College of Law, University of Utah, "Due Process and Counterterrorism", Emory International Law Review, Vol. 26, www.law.emory.edu/fileadmin/journals/eilr/26/26.1/Guiora.pdf

While some have suggested that the Iraqi and Afghan judiciaries are appropriate forums for adjudicating guilt of detainees presently detained in both countries, significant and sufficient doubt has been raised regarding objectivity and judicial fairness. 126 Precisely because the Bush Administrations have ordered the American military to engage in Iraq and Afghanistan in accordance with the Authorization to Use Military Force resolution passed by Congress, the United States bears direct responsibility for ensuring adjudication in a court of law premised on the “rule of law.” 127 Simply put: core principles of due process and fundamental fairness demand the United States ensure resolution of individual accountability.¶ While imposing American judicial norms on Iraq and Afghanistan raise legitimate international law questions regarding violations of national sovereignty, the continued denial of due process raises questions and concerns no less legitimate. History suggests there is no perfect answer to this question; similarly, both basic legal principles and fundamental moral considerations suggest that in a balancing analysis the scale must tip in favor of trial, regardless of valid sovereignty and constitutional concerns. While justice is arguably not blind, continued detention of thousands of suspects without hope of trial is a blight on society that violates core due process principles.¶ Regardless of which proposal above is adopted, the fundamental responsibility is to articulate and implement a judicial policy facilitating trial before an impartial court of law. That is the minimum due process obligation owed the detainee. ¶ VI. MOVING FORWARD¶ Due process is the essence of a proper judicial process; denial of due process, whether in interrogation or trial, violates both the Constitution and moral norms. Denying suspects and defendants due process protections results in counterterrorism measures antithetical to the essence of democracies. While threats posed by terrorism must not be ignored, there is extraordinary danger in failing to carefully distinguish between real and perceived threats. Casting an extraordinarily wide net results in denying the individual rights; similarly, there is no guarantee that such an appr oach contributes to effective operational counterterrorism. Extending constitutional privileges and protections to non- citizens does not threaten the nation-state; rather, it illustrates the already slippery slope. In proposing that due process be an inherent aspect of counterterrorism, I am in full accordance with Judge Bates’ holding. The time has come to implement his words in spirit and law alike; habeas hearings are an important beginning but do not ensure adjudication of individual accountability. Determining innocence or guilt is essential to effective counterterrorism predicated on the rule of law.

## 2AC

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**authority for indefinite detention comes from the NDAA**

**Toensing 2013** [Gale Courey, staff attorney, January 07, 2013 New NDAA Keeps Indefinite Detention, Blocks Guantanamo Closure, <http://indiancountrytodaymedianetwork.com/article/new-ndaa-keeps-indefinite-detention-blocks-guantanamo-closure-146781>

President Barack Obama has signed the $633 billion National Defense Authorization Act of 2013 along with as[signing statement](http://www.lawfareblog.com/wp-content/uploads/2013/01/2013ndaa.stm_.rel_.pdf.pdf) objecting to many of its provisions – but the provision allowing the indefinite detention of American citizens suspected of supporting terrorism without charge or trial was not one of them.¶ The president signed the [NDAA](http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.4310:) on Wednesday, January 2 despite his earlier threats to veto it over prohibitions against closing the Guantanamo Bay detainment and interrogation camp, which he had promised to [shut down](http://www.whitehouse.gov/the_press_office/ClosureOfGuantanamoDetentionFacilities/) on January 22, 2009 – two days after his first term inauguration. Obama objected to a section of the annual NDAA that restricts the president’s ability to transfer detainees from Guantanamo for repatriation or resettlement in foreign countries or to transfer them to the United States for prosecution in federal criminal court.¶ The law also includes a new provision that sounds good – it requires the military to accommodate the conscience, moral principles or religious beliefs of all members of the armed forces – but in effect could lead to claims of a right to discriminate. Republicans said the provision would protect military service members including chaplains from being forced to perform same-sex marriages or take other actions that might offend their religious beliefs, but critics feared the provision could make allowances for acts of discrimination against gay service members and[religious proselytizing](http://blog.foreignpolicy.com/posts/2009/05/04/is_the_us_military_proselytizing_in_afghanistan), which has already raised concerns in Afghanistan.¶ Obama called that provision "unnecessary and ill-advised...as the military already appropriately protects the freedom of conscience of chaplains and service members." He said the Defense Department will "not permit or condone discriminatory actions that compromise good order and discipline or otherwise violate military codes of conduct." He said his administration remains "fully committed" to implementing the repeal of the "don't ask, don't tell" policy.¶ Although the president objected to these and other provisions, but he said needed to sign the bill despite his reservations. “Our Constitution does not afford the President the opportunity to approve or reject statutory sections one by one. I am empowered either to sign the bill, or reject it, as a whole. In this case, though I continue to oppose certain sections of the Act, the need to renew critical defense authorities and funding was too great to ignore.” In a number of cases the president asserted that if a provision “violates constitutional separation of powers principles, my Administration will implement it to avoid the constitutional conflict” and if a provision “obstructs the traditional chain of command. I will implement this provision in a manner consistent with my authority as the Commander in Chief of the Armed Forces and the head of the executive branch.”¶ Last year the annual NDAA passed in a fury of [controversy over provisions](http://indiancountrytodaymedianetwork.com/article/welcome-to-the-united-police-state-of-america-66376) that gave the military unprecedented power to seize suspected terrorists anywhere in the world, including American citizens on U.S. soil, and keep them locked up indefinitely without charge or trial. The bill gave the president and future presidents the unfettered authority to wage war against Al Qaeda, the Taliban and “associated forces,” without defining what those might be. It made those designated as “enemy combatants” subject to indefinite detention, extraordinary rendition and military tribunals without requiring their knowledge or willful intention to provide “material’ or “substantial support. All of those provisions remain in the new version of the NDAA without any objection from the president.¶ When the NDAA was proposed and passed last year, people in Indian country worried that the legislation could be used against them for asserting their rights to self-determination and sovereignty or for protecting their lands and resources against exploitation by governments or corporations. Their concern followed two incidents in which the government conflated American Indians with terrorism—the military’s use of [Geronimo as the code name for Osama bin Laden](http://indiancountrytodaymedianetwork.com/article/apache-leader-jeff-houser-on-use-of-geronimo%E2%80%99s-name-32522) and the revelation that military commission prosecutors had compared the Seminole Indians to terrorists and had cited Andrew Jackson’s murderous actions against the Seminoles as a justification and precedent for prosecuting Al Qaeda suspects.¶ Just as they did last year, civil rights advocates strongly criticized the 2013 bill and the president for signing it into law. Human Rights Watch and 27 other organizations sent a [letter to Obama](http://www.hrw.org/news/2012/11/27/us-obama-should-veto-ndaa-if-it-restricts-guantanamo-detainee-transfers) in November, urging him to veto the NDAA if it impeded his ability to transfer detainees out of Guantanamo Bay. The American Civil Liberties Union roundly criticized the final version of the bill and the president hours after he signed it into law. "President Obama has utterly failed the first test of his second term, even before inauguration day,” said Anthony Romero, executive director of the[American Civil Liberties Union](http://www.aclu.org/national-security/updated-ndaa-prevents-closing-guantanamo-could-lead-claims-right-discriminate). “His signature means indefinite detention without charge or trial, as well as the illegal military commissions, will be extended. He also has jeopardized his ability to close Guantanamo during his presidency. Scores of men who have already been held for nearly 11 years without being charged with a crime—including more than 80 who have been cleared for transfer—may very well be imprisoned unfairly for yet another year. The president should use whatever discretion he has in the law to order many of the detainees transferred home, and finally step up next year to close Guantanamo and bring a definite end to indefinite detention."¶ A lawsuit filed by formerNew York Timesreporter and Pulitzer Prize winner[Chris Hedges](http://www.truthdig.com/chris_hedges), MIT professor[Noam Chomsky](http://www.chomsky.info/),[Daniel Ellsberg](http://www.ellsberg.net/), and others challenging the constitutionality of the NDAA is moving forward. The plaintiffs filed the lawsuit in January 2011, asserting that the NDAA affects their free speech and freedom to assemble rights and that the language of the law is so vague that it “provokes fear” that they could be seized and subjected “to indefinite or prolonged military detention” for exercising their constitutionally protected right to political speech. Last May, federal court Judge Katherine Forrest of the U.S. District Court for the Southern District of New York [issued a permanent injunction](http://indiancountrytodaymedianetwork.com/article/judge-upholds-injunction-against-indefinite-detention-117192) against the implementation of the NDAA’s indefinite detention provision on the grounds that it failed “pass constitutional muster.” But that ruling was put on hold by a 2ndCircuit Court of Appeals judge in September. On December 14, Supreme Court Justice Ruth Bader Ginsburg [denied the plaintiffs’ efforts](http://www.scotusblog.com/2012/12/detention-law-challenge-fails/) to reinstate the injunction, but the case against the law is still proceeding in the Second Circuit Court.

#### And the aumf

AUMF'01, Authorization of Use of Military Force, September 18, 2013,

http://www.govtrack.us/congress/bills/107/sjres23/text

¶ Joint Resolution¶ ¶ To authorize the use of United States Armed Forces against those responsible for the recent attacks launched against the United States.¶ ¶ Whereas, on September 11, 2001, acts of treacherous violence were committed against the United States and its citizens; and¶ ¶ Whereas, such acts render it both necessary and appropriate that the United States exercise its rights to self-defense and to protect United States citizens both at home and abroad; and¶ ¶ Whereas, in light of the threat to the national security and foreign policy of the United States posed by these grave acts of violence; and¶ ¶ Whereas, such acts continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States; and¶ ¶ Whereas, the President has authority under the Constitution to take action to deter and prevent acts of international terrorism against the United States: Now, therefore, be it¶ ¶ Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,¶ ¶ SECTION 1. SHORT TITLE.¶ This joint resolution may be cited as the `Authorization for Use of Military Force'.¶ ¶ SEC. 2. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.¶ (a) IN GENERAL- That the President is authorized to use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States by such nations, organizations or persons.¶ ¶ (b) War Powers Resolution Requirements-¶ ¶ (1) SPECIFIC STATUTORY AUTHORIZATION- Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.¶ ¶ (2) APPLICABILITY OF OTHER REQUIREMENTS- Nothing in this resolution supercedes any requirement of the War Powers Resolution.

#### President’s war powers authority refers to national defense

Manget 91 Fred F, Assistant General Counsel with the CIA, "Presidential War Powers", 1991, media.nara.gov/dc-metro/rg-263/6922330/Box-10-114-7/263-a1-27-box-10-114-7.pdf

The President's war powers authority is actually a national defense power that exists at all times, whether or not there is a war declared by Congress, an armed conflict, or any other hostilities or fighting. In a recent case the Supreme Court upheld the revocation of the passport of a former CIA employee (Agee) and rejected his contention that certain statements of Executive Branch policy were entitled to diminished weight because they concerned the powers of the Executive in wartime. The Court stated: "History eloquently attests that grave problems of national security and foreign policy are by no means limited to times of formally declared war. " 3 ; Another court has said that the war power is not confined to actual engagements on fields of battle only but embraces every aspect of national defense and comprehends everything required to wage war successfully. 3 H A third court stated: "It is-and must be-true that the Executive should be accorded wide and normally unassailable discretion with respect to the conduct of the national defense and the prosecution of national objectives through military means . "39 ¶ Thus, the Executive Branch's constitutional war powers authority does not spring into existence when Congress declares war, nor is it dependent on there being hostilities. It empowers the President to prepare for war as well as wage it, in the broadest sense. It operates at all times.

### Case

#### Assessing Chinese motivation is possible and epistemologically useful---refusing to assess their motives is worse---causes security dilemmas that turn the K

Joseph K. Clifton 11, “DISPUTED THEORY AND SECURITY POLICY: RESPONDING TO “THE RISE OF CHINA”,” 2011, http://scholarship.claremont.edu/cgi/viewcontent.cgi?article=1164&context=cmc\_theses

First, motives can be known. Mearsheimer is correct in observing that assessing motives can be difficult, but this does not mean that the task is impossible. There clearly are ways of finding out information about the goals of states and the means with which they plan to achieve them. One of the most important roles of intelligence analysts, for example, is to determine state interests and expected behavior based on obtained information. The possibility that information may be flawed should not lead to a rejection of all information. People make decisions based on less than perfect knowledge all of the time. This ability to know motives extends to future motives, because an analyst can use information such as historical trends to observe consistencies or constant evolutions of motives. Prediction of the future is necessarily less certain in its accuracy, but the prediction can still be made.104¶ Second, even if there is still some uncertainty of motives, the rational response is not to assume absolute aggression. Assuming aggressive motive in a situation of uncertainty ignites the security dilemma, which could actually decrease a state’s security. Mearsheimer calls this tragic, but it is not necessary. An illustrative example is Mearsheimer’s analysis of the German security situation were the United States to withdraw its military protection. Mearsheimer argues that it would be rational for Germany to develop nuclear weapons, since these weapons would provide a deterrent, and it would also be rational for nuclear European powers to wage a preemptive war against Germany to prevent it from developing a nuclear deterrent. 105 This scenario is not rational for either side because it ignores motives. If Germany knows that other states will attack if it were to develop nuclear weapons, then it would not be rational for it to develop nuclear weapons. And if other states know that Germany’s development of nuclear weapons is only as a deterrent, then it would not be rational to prevent German nuclear development. The point is that the security dilemma exists because of a lack of motivational knowledge, so the proper response is to try to enhance understanding of motives, not discard motivational knowledge altogether. Misperception is certainly a problem in international politics, but reducing misperception would allow states to better conform to defensive realist logic, which results in preferable outcomes relative to offensive realism. 106¶ Assessing motives is vital in the case of the rise of China, because mutually preferable outcomes can be achieved if China is not an aggressive power, as offensive realism would have to assume, but is actually a status quo power with aims that have limited effect on the security of the U.S. and other potentially affected countries. I do not mean here to claim with certainty that China is and will always be a status quo power, and policymakers likely have access to more intentional information than what is publicly known. At the very least, valuing motivational assessments empowers policymakers to act on this knowledge, which is preferable because of the possibility of reducing competition and conflict.

#### Policymakers act as if cred matters

Tang 5 Shiping, associate research fellow and deputy director of the Center for Regional Security Studies at the Chinese Academy of Social Sciences in Beijing, January-March, “Reputation, Cult of Reputation, and International Conflict,” Security Studies, Vol. 14, No. 1, p. 34-62

The problem, of course, is that politicians usually do not have such nuanced understandings of credibility, reputation, resolve, and capability24 Too often, they fight for behavioral reputation for resolve and hope to improve their bargaining reputation (thus credibility) in the future. By doing so, they confuse themselves, mislead their domestic audiences, and squander their countries' blood and treasure for the wrong commodity. In fact, most strategists and politicians have either lumped the two kinds of reputation together or believed that behavioral reputation can easily be converted into bargaining reputation (that is, they have believed that commitments are interdependent or that reputation is fungible). Because developing and maintaining a behavioral reputation for being resolute is desirable, many politicians and strategists undertake certain tasks ex ante to develop such a reputation, without ever questioning whether having a behavioral reputation is possible at all. This practice, as discussed below, informs one central belief behind the cult of reputation. Perhaps because behavioral reputation is something that may count in the future, moreover, it is the type of reputation about which decisionmakers are most concerned.25 In fact, decisionmakers actually may bargain hard largely because they care more about their future behavioral reputation. This article thus focuses on behavioral reputation for resolve (which hereafter will be referred to as "reputation" unless specified otherwise).

#### Legitimacy theory is true and key to foster cooperation

Douglas M Gibler 8, Department of Political Science University of Alabama, Tuscaloosa “The Costs of Reneging: Reputation and Alliance Formation” The Journal of Conflict Resolution, Vol. 52, No. 3, June, pp. 426-454

More sophisticated treatments of the reputation logic have been produced by formal theorists, both in economics and in political science. In economics, the ability of firm reputation to deter competition has been well analyzed (see Kreps and Wilson, 1982; Wilson, 1989; and Weigelt and Camerer, 1988), and political scientists have adopted these theories as tools in understanding the types of signals leaders can send (see for example, Alt, Calvert, and Humes, 1988; Ordeshook, 1986; and Wagner, 1992). Sartori (2002) and Guisinger and Smith (2002) probably go furthest in arguing that leaders and their envoys have incentives to develop certain types of reputations in order to overcome the uncertainty endemic to crisis diplomacy. In these models, a reputation for honesty allows the sender to credibly give information that would otherwise be “cheap talk”, and thus, leaders may concede less important issues, without bluffing, in order to maintain a reputation for honesty when more important issues arise (Sartori, 2002: 122).¶ The sum argument of these statements and theoretical treatments is clear. Decision-makers argue and act, at least in part, based on reputations. Traditional deterrence theory suggests reputations should be pursued by leaders as important and manipulable tools, which are useful in future crises. Formal theorists agree; reputations provide valuable information when the costs of signaling are low.

**Hegemony is impossible but American military power is key to prevent global chaos and extinction – there’s no alternative**

**Brzezinski 12** [Zbigniew Brzezinski, CSIS counselor and trustee and cochair of the CSIS Advisory Board, Robert E. Osgood Professor of American Foreign Policy at the School of Advanced International Studies @ Johns Hopkins University, cochair of the American Committee for Peace in the Caucasus and a member of the International Advisory Board of the Atlantic Council, recipient of numerous honors and awards. “After America”. Foreign Policy, Jan/Feb 2012. http://www.foreignpolicy.com/articles/2012/01/03/after\_america?page=0,1]

Not so long ago, a high-ranking Chinese official, who obviously had concluded that America's decline and China's rise were both inevitable, noted in a burst of candor to a senior U.S. official: "But, please, let America not decline too quickly." Although the inevitability of the Chinese leader's expectation is still far from certain, he was right to be cautious when looking forward to America's demise. For if America falters, the world is unlikely to be dominated by a single preeminent successor -- not even China. International uncertainty, increased tension among global competitors, and even outright chaos would be far more likely outcomes. While a sudden, massive crisis of the American system -- for instance, another financial crisis -- would produce a fast-moving chain reaction leading to global political and economic disorder, a steady drift by America into increasingly pervasive decay or endlessly widening warfare with Islam would be unlikely to produce, even by 2025, an effective global successor. No single power will be ready by then to exercise the role that the world, upon the fall of the Soviet Union in 1991, expected the United States to play: the leader of a new, globally cooperative world order. More probable would be a protracted phase of rather inconclusive realignments of both global and regional power, with no grand winners and many more losers, in a setting of international uncertainty and even of potentially fatal risks to global well-being. Rather than a world where dreams of democracy flourish, a Hobbesian world of enhanced national security based on varying fusions of authoritarianism, nationalism, and religion could ensue. The leaders of the world's second-rank powers, among them India, Japan, Russia, and some European countries, are already assessing the potential impact of U.S. decline on their respective national interests. The Japanese, fearful of an assertive China dominating the Asian mainland, may be thinking of closer links with Europe. Leaders in India and Japan may be considering closer political and even military cooperation in case America falters and China rises. Russia, while perhaps engaging in wishful thinking (even schadenfreude) about America's uncertain prospects, will almost certainly have its eye on the independent states of the former Soviet Union. Europe, not yet cohesive, would likely be pulled in several directions: Germany and Italy toward Russia because of commercial interests, France and insecure Central Europe in favor of a politically tighter European Union, and Britain toward manipulating a balance within the EU while preserving its special relationship with a declining United States. Others may move more rapidly to carve out their own regional spheres: Turkey in the area of the old Ottoman Empire, Brazil in the Southern Hemisphere, and so forth. None of these countries, however, will have the requisite combination of economic, financial, technological, and military power even to consider inheriting America's leading role. China, invariably mentioned as America's prospective successor, has an impressive imperial lineage and a strategic tradition of carefully calibrated patience, both of which have been critical to its overwhelmingly successful, several-thousand-year-long history. China thus prudently accepts the existing international system, even if it does not view the prevailing hierarchy as permanent. It recognizes that success depends not on the system's dramatic collapse but on its evolution toward a gradual redistribution of power. Moreover, the basic reality is that China is not yet ready to assume in full America's role in the world. Beijing's leaders themselves have repeatedly emphasized that on every important measure of development, wealth, and power, China will still be a modernizing and developing state several decades from now, significantly behind not only the United States but also Europe and Japan in the major per capita indices of modernity and national power. Accordingly, Chinese leaders have been restrained in laying any overt claims to global leadership. At some stage, however, a more assertive Chinese nationalism could arise and damage China's international interests. A swaggering, nationalistic Beijing would unintentionally mobilize a powerful regional coalition against itself. None of China's key neighbors -- India, Japan, and Russia -- is ready to acknowledge China's entitlement to America's place on the global totem pole. They might even seek support from a waning America to offset an overly assertive China. The resulting regional scramble could become intense, especially given the similar nationalistic tendencies among China's neighbors. A phase of acute international tension in Asia could ensue. Asia of the 21st century could then begin to resemble Europe of the 20th century -- violent and bloodthirsty. At the same time, the security of a number of weaker states located geographically next to major regional powers also depends on the international status quo reinforced by America's global preeminence -- and would be made significantly more vulnerable in proportion to America's decline. The states in that exposed position -- including Georgia, Taiwan, South Korea, Belarus, Ukraine, Afghanistan, Pakistan, Israel, and the greater Middle East -- are today's geopolitical equivalents of nature's most endangered species. Their fates are closely tied to the nature of the international environment left behind by a waning America, be it ordered and restrained or, much more likely, self-serving and expansionist. A faltering United States could also find its strategic partnership with Mexico in jeopardy. America's economic resilience and political stability have so far mitigated many of the challenges posed by such sensitive neighborhood issues as economic dependence, immigration, and the narcotics trade. A decline in American power, however, would likely undermine the health and good judgment of the U.S. economic and political systems. A waning United States would likely be more nationalistic, more defensive about its national identity, more paranoid about its homeland security, and less willing to sacrifice resources for the sake of others' development. The worsening of relations between a declining America and an internally troubled Mexico could even give rise to a particularly ominous phenomenon: the emergence, as a major issue in nationalistically aroused Mexican politics, of territorial claims justified by history and ignited by cross-border incidents. Another consequence of American decline could be a corrosion of the generally cooperative management of the global commons -- shared interests such as sea lanes, space, cyberspace, and the environment, whose protection is imperative to the long-term growth of the global economy and the continuation of basic geopolitical stability. In almost every case, the potential absence of a constructive and influential U.S. role would fatally undermine the essential communality of the global commons because the superiority and ubiquity of American power creates order where there would normally be conflict. None of this will necessarily come to pass. Nor is the concern that America's decline would generate global insecurity, endanger some vulnerable states, and produce a more troubled North American neighborhood an argument for U.S. global supremacy. In fact, the strategic complexities of the world in the 21st century make such supremacy unattainable. But those dreaming today of America's collapse would probably come to regret it. And as the world after America would be increasingly complicated and chaotic, it is imperative that the United States pursue a new, timely strategic vision for its foreign policy -- or start bracing itself for a dangerous slide into global turmoil.

#### Securitizing discourse in the context of climate change is the only way to -> change

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Despite these problems with any potential climate-change security discourse, it may nevertheless have some utility. Security communicates a certain gravitas that is arguably necessary in climate change policy. In that climate change is a security problem for certain groups, identifying it as such suggests that it is an issue that warrants a policy response commensurate in effort if not in kind with war. A critical and ambiguous concept in the UNFCCC is its reference to ‘dangerous’ levels of climate change. Because it is an accentuated discourse on vulnerability, security encapsulates danger much better than concepts such as sustainability, vulnerability or adaptation, and it offers a framework in which danger can be recast as widespread risks to welfare and (in the case of small island states) sovereignty. Security can also serve as an integrative concept which links local (human security), national (national security) and global (international security) levels of environmental change and response. It also integrates mitigation and adaptation as both are essential to security from climate risks. Finally, understanding processes that render groups insecure – and climate change is but one of these – brings to the fore issues of equity and the operation of the international political-economy. Further, although it should not be overstated, security addresses the possibility of violent social upheaval. It also brings military expenditure and its environmental impacts into consideration. The ability of conventional national security discourse and policy to appropriate climate change is a matter of how climate security risks are understood, and who talks about them.

#### Too late: intervention has irreparably altered the environment. It’s try or die for managerialism

**Levy 99** (Neil, Ph.D. in Comparative Literature and Critical Theory – Monash University, and Currently Tutor, Centre for Critical Theory – Monash University, Discourses of the Environment edited by Eric Darier, p. 214-215)

If our current situation can really be accurately characterized as the extension of bio-power from the realm of population to that of all life, does that entail that the strategies we should be adopting are those of management of the non-human world, as well as that of the human? I believe that **it does**. But I do not believe that this necessitates, or even makes possible, the genetically engineered, artificial world which McKibben and many others who have advocated non-anthropocentric ethics have feared, the replacement of the natural world with `a space station' (McKibben 1989: 170). And not just for the reason that, after the end of nature, the artificial/natural distinction is impossible to maintain. The world McKibben fears, in which forests are replaced by trees designed by us for maximum efficiency at absorbing carbon, and new strains of genetically engineered corn flourish in the new conditions brought about by global warming, seems to me unlikely in the extreme. The systems with which we are dealing, the imbrication of a huge variety of forms of life with chemical processes, with meteorological and geographic processes, are so complex, and occur on such scale, that I can see no way in which they could be replaced by artificial systems which would fulfil the same functions. Every intervention we make in' that direction has consequences which are so far-reaching, and involve so many variables and as yet undetected connections between relatively independent systems, that they are practically unforeseeable. To replace non-human systems with mechanisms of our own devising would involve thousands of such interventions, each of which would then require follow-up interventions in order to reverse or control their unintended consequences. Even when, and if, our knowledge of the environment were to reach a stage at which we were able to predict the consequences of our interventions, it would be likely to be far easier, and, in the long run, cheaper, simply to turn the already functioning, `natural' systems to our advantage. No method of reducing the amount of carbon dioxide in our atmosphere is likely to be more effective than preserving the Amazonian rain forest. For this reason, I believe, environmentalists have nothing to fear fromsuchan apparently instrumental approach**.** If the `technological fix' is unlikely to be more successful than strategies of limitation of our use of resources, we are nevertheless unable simply to leave the environment as it is.There is a real and pressing need for more, and more accurate, technical and scientific information about the non-human world. For we are faced with a situation in which the processes we have **already set in train** will continue to impact upon that world, and therefore us, for centuries. It is therefore necessary, not only to stop cutting down the rain forests, but to **develop** real, **concrete proposals for action**, to reverse, or at least limit, the effects of our previous interventions. Moreover, there is another reason why our behaviour towards the non-human cannot simply be a matter of leaving it as it is, at least in so far as our goals are not only environmental but also involve social justice. For if we simply preserve what remains to us of wilderness, of the countryside and of park land, we also **preserve patterns of very unequal access to their resources** and their consolations (Soper 1995: 207). In fact, **we risk exacerbating** these **inequalities**. It is not us, but the poor of Brazil, who will bear the brunt of the misery which would result from a strictly enforced policy of leaving the Amazonian rain forest untouched, in the absence of alternative means of providing for their livelihood. It is the development of policies to provide such ecologically sustainable alternatives which we require, as well as the development of technical means for replacing our current green-house gas-emitting sources of energy. Such policies and proposals for concrete action must be formulated by ecologists, environmentalists, people with expertise concerning the functioning of ecosystems and the impacts which our actions have upon them. Such proposals are, therefore, very much the province of Foucault's specific intellectual**,** the one who works `within specific sectors, at the precise points where their own conditions of life or work situate them' (Foucault 1980g: 126). For who could be more fittingly described as `the strategists of life and death' than these environmentalists? After the end of the Cold War, it is in this sphere, more than any other, that man's `politics places his existence as a living being in question' (Foucault 1976: 143). For it is in facing the consequences of our intervention in the non-human world that the **fate of our species**, and of those with whom we share this planet, **will be decided**.

### K

#### The role of the ballot’s to endorse a political strategy of civic engagement with institutions

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Leftist American culture critics might put their considerable talents to better use if they bury some of their cynicism about America's social and political prospects and help forge public and political possibilities in a spirit of determination to, indeed, achieve our country - the country of Jefferson and King; the country of John Dewey and Malcom X; the country of Franklin Roosevelt and Bayard Rustin, and of the later George Wallace and the later Barry Goldwater. To invoke the words of King, and with reference to the American society, the time is **always ripe** to **seize the opportunity** to help create the "beloved community," one woven with the thread of agape into a conceptually single yet diverse tapestry that shoots for nothing less than a true intra-American cosmopolitan ethos, one wherein both same sex unions and faith-based initiatives will be able to be part of the same social reality, one wherein business interests and the university are not seen as belonging to two separate galaxies but as part of the same answer to the threat of social and ethical nihilism. We who fancy ourselves philosophers would do well to create from within ourselves and from within our ranks a new kind of public intellectual who has both a hungry theoretical mind and who is yet capable of seeing the need to move past high theoryto other important questions that are **less bedazzling and "interesting"** but m**ore important to the prospect of our flourishing** - questions such as "How is it possible to develop a citizenry that cherishes a certain hexis, one which prizes the **character** of the Samaritan on the road to Jericho almost more than any other?" or "How can we square the political dogma that undergirds the fantasy of a missile defense system with the need to treat America as but one member in a community of nations under a "law of peoples?"The new public philosopher might seek to understand labor law and military and trade theory and doctrine as much as theories of surplus value; the logic of international markets and trade agreements as much as critiques of commodification, and the politics of complexity as much as the politics of power (all of which can still be done from our arm chairs.) This means going down deep into the guts of our quotidian social institutions, into the grimy pragmatic details where intellectuals are loathe to dwell but where the officers and bureaucrats of those institutions take difficult and often unpleasant, imperfect decisions that affect other peoples' lives, and it means making honest attempts to truly understand how those institutions actually function in the actual world before howling for their overthrow commences. This might help keep us from being slapped down in debates by true policy pros who actually know what they are talking about but who lack awareness of the dogmatic assumptions from which they proceed, and who have not yet found a good reason to listen to **jargon-riddled lectures from philosophers and culture critics** with their snobish disrespect for the so-called "managerial class."

#### Ethical policymaking requires calculation of our impacts—refusing consequentialism allows atrocity in the name of ethical purity

Nikolas Gvosdev 5 (Nikolas, Exec Editor of The National Interest, The Value(s) of Realism, SAIS Review 25.1, Muse)

As the name implies, realists focus on promoting policies that are achievable and sustainable. In turn, the morality of a foreign policy action is judged by its results, not by the intentions of its framers. A foreign policymaker must weigh the consequences of any course of action and assess the resources at hand to carry out the proposed task. As Lippmann warned, Without the controlling principle that the nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about foreign affairs.8 Commenting on this maxim, Owen Harries, founding editor of The National Interest, noted, "This is a truth of which Americans—more apt to focus on ends rather than means when it comes to dealing with the rest of the world—need always to be reminded."9 In fact, Morgenthau noted that "there can be no political morality without prudence."10 This virtue of prudence—which Morgenthau identified as the cornerstone of realism—should not be confused with expediency. Rather, it takes as its starting point that it is more moral to fulfill one's commitments than to make "empty" promises, and to seek solutions that minimize harm and produce sustainable results. Morgenthau concluded: [End Page 18] Political realism does not require, nor does it condone, indifference to political ideals and moral principles, but it requires indeed a sharp distinction between the desirable and the possible, between what is desirable everywhere and at all times and what is possible under the concrete circumstances of time and place.11 This is why, prior to the outbreak of fighting in the former Yugoslavia, U.S. and European realists urged that Bosnia be decentralized and partitioned into ethnically based cantons as a way to head off a destructive civil war. Realists felt this would be the best course of action, especially after the country's first free and fair elections had brought nationalist candidates to power at the expense of those calling for inter-ethnic cooperation. They had concluded—correctly, as it turned out—that the United States and Western Europe would be unwilling to invest the blood and treasure that would be required to craft a unitary Bosnian state and give it the wherewithal to function. Indeed, at a diplomatic conference in Lisbon in March 1992, the various factions in Bosnia had, reluctantly, endorsed the broad outlines of such a settlement. For the purveyors of moralpolitik, this was unacceptable. After all, for this plan to work, populations on the "wrong side" of the line would have to be transferred and resettled. Such a plan struck directly at the heart of the concept of multi-ethnicity—that different ethnic and religious groups could find a common political identity and work in common institutions. When the United States signaled it would not accept such a settlement, the fragile consensus collapsed. The United States, of course, cannot be held responsible for the war; this lies squarely on the shoulders of Bosnia's political leaders. Yet Washington fell victim to what Jonathan Clarke called "faux Wilsonianism," the belief that "high-flown words matter more than rational calculation" in formulating effective policy, which led U.S. policymakers to dispense with the equation of "balancing commitments and resources."12 Indeed, as he notes, the Clinton administration had criticized peace plans calling for decentralized partition in Bosnia "with lofty rhetoric without proposing a practical alternative." The subsequent war led to the deaths of tens of thousands and left more than a million people homeless. After three years of war, the Dayton Accords—hailed as a triumph of American diplomacy—created a complicated arrangement by which the federal union of two ethnic units, the Muslim-Croat Federation, was itself federated to a Bosnian Serb republic. Today, Bosnia requires thousands of foreign troops to patrol its internal borders and billions of dollars in foreign aid to keep its government and economy functioning. Was the aim of U.S. policymakers, academics and journalists—creating a multi-ethnic democracy in Bosnia—not worth pursuing? No, not at all, and this is not what the argument suggests. But aspirations were not matched with capabilities. As a result of holding out for the "most moral" outcome and encouraging the Muslim-led government in Sarajevo to pursue maximalist aims rather than finding a workable compromise that could have avoided bloodshed and produced more stable conditions, the peoples of Bosnia suffered greatly. In the end, the final settlement was very close [End Page 19] to the one that realists had initially proposed—and the one that had also been roundly condemned on moral grounds.

#### Epistemology doesn’t precede our impacts—threats must be dealt with

Olav Knudsen 1, PoliSci Professor at Sodertorn University, “Post-Copenhagen Security Studies,” *Security Dialogue* 32:3, September, <http://sdi.sagepub.com/cgi/reprint/32/3/355>

Moreover, I have a problem with the underlying implication that it is unimportant whether states ‘really’ face dangers from other states or groups.  In the Copenhagen school, threats are seen as coming mainly from the actors’ own fears, or from what happens when the fears of individuals turn into paranoid political action.  In my view, this emphasis on the subjective is a misleading conception of threat, in that it discounts an independent existence or whatever is perceived as a threat. Granted, political life is often marked by misperceptions, mistakes, pure imaginations, ghosts, or mirages, but such phenomena do not occur simultaneously to large numbers of politicians, and hardly most of the time.  During the cold War, threats—in the sense of plausible possibilities of danger—referred to ‘real’ phenomena, and they refer to ‘real’ phenomena now.  The objects referred to are often not the same, but that is a different matter.   Threats have to be dealt with both in terms of perceptions and in terms of the phenomena which are perceived to be threatening.   The point of Waever’s concept of security is not the potential existence of danger somewhere but the use of the word itself by political elites.   In his 1997 PhD dissertation, he writes, ‘One can view “security” as that which is in language theory called a speech act: it is not interesting as a sign referring to something more real—it is the utterance itself that is the act.’  The deliberate disregard for objective actors is even more explicitly stated in Buzan & Waever’s joint article of the same year.   As a consequence, the phenomenon of threat is reduced to a matter of pure domestic politics.   It seems to me that the security dilemma, as a central notion in security studies, then loses its foundation.  Yet I see that Waever himself has no compunction about referring to the securety dilemma in a recent article.  This discounting of the objective aspect of threats shifts security studies to insignificant concerns.  What has long made ‘threats’ and ‘threat perceptions’ important phenomena in the study of IR is the implication that urgent action may be required.   Urgency, of course, is where Waever first began his argument in favor of an alternative security conception, because a convincing sense of urgency has been the chief culprit behind the abuse of ‘security’ and the consequent ‘politics of panic,’ as Waever aptly calls it.  Now, here—in the case of urgency—another baby is thrown our with the Waeverian bathwater.   When situations of urgency arise, those situations are challenges to democracy; they are actually at the core of the problematic arising with the process of making security policy in parliamentary democracy.  But in Waever’s world, threats are merely more or less persuasive, and the claim of urgency is just another argument.  I hold that instead of ‘abolishing’ threatening phenomena ‘out there’ by reconceptualizing them, as Waever does, we should continue paying attention to them, because situations with a credible claim to urgency will keep coming back and then we need to know more about how they work in the interrelations of groups and states (such as civil wars, for instance), not least to find adequate democratic procedures for dealing with them. Drawing on the securitization concept, much research now focuses on the process of defining something as a threat in order to put ‘new’ things on the political agenda.  It should follow from the above that I disagree with the level of emphasis thus placed on the subjective side.  Such an emphasis means that researchers are asked to distance themselves from the world of politics as it is and to shift their attention one-sidedly towards the politics of ‘what could be’.  This aspect of Waever’s approach is clearly not accidental; it is intended to be that way. The problem here is that this serves to downgrade the significance of problems that exist out there—not just in the heads of politicians and decision-makers but as challenges to their experience and problem-solving efforts.  The implication of the agenda-setting approach is that perceptions and images are arbitrary, a stance which in itself may be ill-advised because it detracts from the significance of issues like crisis management in Europe, which ought to have a fairly high priority.  Yet, to be fair, the distance of theory from policy is not only a product of the Copenhagen school; it is also an effect of the excessive emphasis on epistemology and metatheoretical issues referred to above.

#### Focus on ontology/epistemology bad—doesn’t affect our truth claims and destroys political problem-solving

Owen 2 [David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7]

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

#### The K does not disprove our aff—even if they prove that the motives of our authors are bad, that does not disprove the accuracy of their work.

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In his introduction, Lockman rejects empiricism and positivism with the claim that knowledge is socially constructed and “is never simply the product of the direct observation of reality and our capacity for reasoning.”[1] Similarly, his favorable review of Orientalism first outlines Said’s own poststructuralist epistemology, wherein humans – unable to perceive reality objectively – can only interpret reality through subjective ‘discourses,’ or “socially prevalent systems of meaning.”[2] Initially, this premise does not seem to be crucial to the argument. After all, the reality of the claim that humans cannot know reality would contradict both itself and every other human argument, whether advanced by Bernard Lewis or Edward Said.[3] Thus were he to truly embrace this epistemology, Said would have to adopt some criterion other than historical accuracy with which to evaluate Orientalism. The Ethical Premise Yet this is Said’s next step. More disconcerting to him than Orientalism’s questionable ‘essentialist’ assumptions is his belief that this academic discipline “hides the interests of the Orientalist,”[4] whose guild’s veneer of unbiased scholarship supposedly masks its ancient “history of complicity with [Western] imperial power.”[5] Although the evidence he marshals in support of this claim is neither comprehensive[6] nor demonstrably representative of the Western Orientalist literature[7] – and although he uses this evidence to sketch his own ‘essentialist’ image of Western attitudes toward the Orient[8] – these inconsistencies and methodological imperfections obscure a deeper flaw: Even if Said had incontrovertibly demonstrated that all Orientalists have an interest in, and serve as accomplices to, Western imperialism, he still would fail to invalidate Orientalist scholarship. No criticism of Orientalist motives or ethics can disprove Orientalist-produced knowledge[9] – so long as such scholarship is judged on its accuracy alone. Yet by postulating a poststructuralist epistemology, Said can ignore the factual validity of a scholar’s work – and can choose instead to judge it according to the ethical validity of his motives. And measured against the yardstick of Said’s anti-imperialist moral views, Orientalists tend to come up short. In sum, by eliminating any epistemological criteria for judging scholarship, Said becomes free to judge it on its ethical underpinnings or implications.[10] The Ontological Premise Set In this context, Said criticizes four “principal dogmas of Orientalism”: first, the assumption of an ahistorical and ontological difference between Occident and Orient; second, a preference for classical Oriental texts over modern Oriental evidence; third, the assertion of the Orient’s monolithic nature; and fourth, an underlying fear of, or will to dominate, the Orient.[11] The fourth ‘dogma’ is only an ethical prescription, not an academic premise, but the remaining three are, as he argues, questionable assumptions. Still, his obvious misinterpretations of Orientalists such as Bernard Lewis[12] suggest that Said is prone to misreading Orientalist scholarship, which may discredit even this portion of his argument. Yet Said himself subordinates this ontological critique to the epistemological and ethical premises discussed above. He acknowledges that “the mind requires order,”[13] that Orientalism fulfills this need through its “schematization of the entire Orient,”[14] and that “cultural differences” play a “constitutive role” in human relations[15] – revealing how a reformed Orientalism, at least, might attain empirical accuracy. Nevertheless, Said keeps judging scholarship on the basis of its ethical implications rather than its objectivity: “[The] main intellectual issue raised by Orientalism,” he believes, is whether one can “divide human society, as indeed human society seems to be genuinely divided, into clearly different cultures…and survive the consequences humanly....I mean to ask whether there is any way of avoiding…hostility” among these groups.[16] Thus, although such queries yield a detailed exposition of Edward Said’s moral philosophy, Orientalism is hardly a substantive critique of Orientalist scholarship.

#### Critiques of imperialism are academically inept and obscure the blatantly obvious benefits of spreading liberalism---traditionally western values may not be perfect but they’re the best check against violence---this is also a defense of our scholarship

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Said’s brand of propagandais particularly insidious. Although he presents himself as a heroic defender of liberal learning and systematic scholarship, he conjures egregious misrepresentations and promulgates toxic misunderstandings, thereby undermining the separation between scholarly vocation and partisan pleading in defense of which he purports to write.¶ Nor is such an outcome incidental to Orientalism’s larger project. Said aims to persuade that for hundreds of years Western scholars of the East, like U.S. and Israeli political leaders today, have been blinded to the realities of Arab life and the wider Muslim world by the very principles that lie at the heart of the West. Furthermore, he wants readers to believe that these principles compel the West to vanquish and oppress Arabs and Muslims. To succeed, Said must anesthetize his readers’ critical faculties and incite their resentment of Western power and preeminence.¶ Certainly, Said’s conclusions can be convenient. Learning Arabic, Turkish, and Persian, and studying the Koran and Islamic jurisprudence, Muslim poetry and philosophy, and the social and political structures and history of the peoples of the Middle East are exacting and arduous labors. It’s much easier to forgo all that hard work and instead, following Said who follows Foucault, proclaim that such learning and study inevitably falsify their subject matter and ineluctably contribute to the domination of cultures that the Western mind can never hope to understand. Better not to engage in systematic study of Arabs and Muslims, and better still to take one’s stand against those who do. In this way, Said and his disciples stand the scholarly vocation on its head, transforming the self-imposition and social enforcement of ignorance into intellectual and moral virtues.¶ Our urgent need today for impartial and objective analysis of the Arab and Muslim world makes a thoroughgoing critique of Said’s work a top intellectual priority.¶ In ibn warraq, Said and his celebrated Orientalism have found a worthy critic. To be sure, Ibn Warraq is not the first to squarely confront Said. Bernard Lewis exposed massive flaws in Said’s understanding of the Islamic world in a lengthy and sharp 1982 exchange in the New York Review of Books. In a substantial 1999 essay in the New Criterion, Australian writer Keith Windschuttle demonstrated that Said’s depiction of the whole of Oriental studies as a form of imperialism is devoid of serious historical support, both in its depiction of the West and of the East. And in 2001, in Ivory Towers on Sand: The Failure of Middle Eastern Studies in America, Washington Institute for Near East Studies fellow Martin Kramer chronicled the baleful impact of Said’s writings on Middle East scholars. But Ibn Warraq’s is the first book-length, post-9/11 critique of Said’s views and of the fashionable “postcolonial studies” paradigm that Orientalism spawned. And, with a rare combination of polemical zest and prodigious learning, it is the first to address and refute Said’s arguments “against the background of a more general presentation of salient aspects of Western civilization.”¶ A pen name taken by the author of Defending the West to protect himself from retribution from Muslims enraged by his writings, Ibn Warraq means “son of a stationer, book-seller, paper-seller.” The name, adopted over the centuries as an alias by dissenting Muslims, evokes the ninth-century figure Muhammad al Warraq, who doubted that Muhammad was a prophet and insisted that the claims of Islam must submit to the authority of reason. It is certainly an apt choice for our generation’s Ibn Warraq, who burst upon the scene in 1995 with his outspoken Why I Am Not A Muslim, then edited five volumes aimed at putting Islam in historical and philosophical context, and, with his most recent book, seeks to set the record straight about two centuries’ worth of Western scholarship of the Arab people and of Islamic civilization.¶ Ibn Warraq has recently let himself be videotaped in public, and some information about him is available through writings and interviews (helpfully gathered at http://en.wikipedia.org/wiki/Ibn\_Warraq). Of Muslim origin, he was born in India in 1946. In 1947, after the partition, the family left for Pakistan. According to a short profile in 2007 in World Magazine, he was sent to boarding school in England by his father “to circumvent a grandmother pushing him into local madrassahs.” He later studied philosophy and Arabic at the University of Edinburgh and for five years in the 1970s taught school in London. In the 1980s, he moved to Paris, opened an Indian restaurant, and also worked for a travel agency. It took the 1989 fatwah issued by Islamic Republic of Iran ruler Ayatollah Ruhollah Khomeini calling for the death of Satanic Verses author Salman Rushdie to impel Ibn Warraq to concentrate his formidable talents as scholar and author on writing for the public about the question of Islam.¶ In Defending the West, Ibn Warraq demonstrates that Said is guilty of the major intellectual errors he ostentatiously decries in the twenty-fifth anniversary edition preface: obscuring the diversity and complexity of lived experience by falsely ascribing essential features to peoples and civilizations; and rendering categorical moral and political judgments without the adequate historical knowledge on which responsible judgment depends.¶ Said’s transgressions against sound thinking begin with the forcing of the discipline of Orientalism onto a procrustean bed. According to the standard definition, Orientalism refers to Western scholarly study of the East, including not only or even primarily the Middle East but also Asia and even parts of Eastern Europe. But for no good theoretical or historical reason, Said severely reduces the term’s range of meaning:¶ Said seems to use the term “Orientalist” for one who, on the whole, studies the Middle East, that is, the Muslim populations of the Middle East. The person who studies the Jews, or the Zoroastrians, is not in Edward Said’s view an “Orientalist.” For Said, the non-Muslims, and even non-Arabs, hardly exist, are occasionally mentioned, are never discussed or acknowledged as Orientals with a history and presence: there are no Copts, no Maronites, not Mandaeans, no Samaritans, no Assyrians, no Greek Orthodox Christians, no Chaldeans, no Berbers, and of course no Jews in the “Orient” for which Said means — must mean — the Middle East and North Africa, peopled with Arabs and Muslims on the one hand and “all the others” on the other hand. All of these others can never be part of “the Other” about whose fate, at the hands of Western Orientalists and imperialists, Said is so concerned.¶ This egregious organizing distortion is, as Ibn Warraq shows, the first of many that follow.¶ The first of Defending the West’s three parts, “Edward Said and the Saidists,” is based on an essay Ibn Warraq published a decade ago. Despite some regrets about the tone, he incorporates it more or less intact on the ground that through the attention it has received it has achieved a life of its own. And indeed, Ibn Warraq does not mince words here. Declaring that the “totally pernicious influence of Edward Said’s Orientalism” has made “self-examination for Arabs and Muslims, and especially criticism of Islam in the West, very difficult,” he locates the crux of the problem in the book’s blame-the-West-first spiritand its anything-goes rhetorical tactics. Orientalism, he observes,¶ taught an entire generation of Arabs the art of self-pity — “were it not for the wicked imperialists, racists and Zionist, we would be great once more” — encouraged the Islamic fundamentalist generation of the 1980s, bludgeoned into silence any criticism of Islam, and even stopped dead the research of eminent Islamologists who felt their findings might offend Muslim sensibilities and who dared not risk being labeled “Orientalist.” The aggressive tone of Orientalism is what I have called “intellectual terrorism,” since it seeks to convince not by arguments or historical analysis, but by spraying charges of racism**,** imperialism, and Eurocentrism from a moral high ground; anyone who disagrees with Said has insult heaped upon him. The moral high ground is an essential element in Said’s tactics. Since he believes his position is morally unimpeachable, Said obviously thinks he is justified in using any means possible to defend it, including the distortion of the views of eminent scholars**,** interpreting intellectual and political history in a highly tendentious way — in short, twisting the truth. But in any case, he does not believe in the “truth.”¶ One can understand why today, in the context of the war against jihadist terrorism, Ibn Warraq has regrets, for example, about calling Said’s tactics “intellectual terrorism.” But his description of those tactics and their impact on Middle East scholarship is spot on.¶ Ibn Warraq studied philosophy and Arabic, taught school, opened an Indian restaurant, and worked for a travel agency before turning his formidable talents to writing about Islam.¶ Ibn Warraq’s criticisms of Said come fast and furious. He shows that Said routinely produces pretentious, meaningless, and contradictory speech. Most notably, in the fashion of the more glib postmodernism, Said stresses that “the Orient” does not exist but is rather the paranoid construction of Western scholars. This, however, does not prevent him from blatantly contradicting himself by positing that two centuries of study by scholars in Europe and the U.S. have produced “a growing systematic knowledge in Europe about the Orient” and “a fair amount of exact positive knowledge about the Orient.” Nor does it stop Said from decrying Orientalists because — contrary to his insistence that a real Orient does not exist and contrary to his acknowledgment that the Orientalists have gained substantial knowledge of it — they have “‘no interest in, much less capacity for, showing what the true Orient and Islam really are.’”¶ Furthermore, Said commits “historical howlers” and engages in acts of “intellectual dishonesty.” For example, he asserts that “at the end of the seventeenth century, Britain and France dominated the eastern Mediterranean, when in fact the Levant was still controlled for the next hundred years by the Ottomans.” That’s no small blunder for a book about European imperialism in the Middle East.¶ Meanwhile, Said’s repeated mischaracterizations of the writings of Orientalists such as R.W. Southern, Friedrich Schlegel, and Sir William Jones, to mention only a few of the distinguished scholars whom Said defames — sometimes ascribing to them the opposite of what they say, sometimes criticizing them for claims that are in fact true and documentable — cannot be chalked up to ignorance or carelessness. After all, while Said was not trained as a historian, he was, as he himself emphasizes, schooled in the great humanist tradition, which puts a premium on the careful interpretation of texts. Moreover, this training makes his accusation against Jane Austen of sympathy for the slave trade on the basis of a preposterous reading of a single passage from Mansfield Park all the more scandalous. And it makes his gross interpretation of Dante, whom he charges with anti-Muslim bias for putting three eminent Muslims in the outer circle of Hell along with virtuous heathens like Plato and Aristotle all the more inexcusable. As Ibn Warraq points out, “these illustrious Muslims were included precisely because of Dante’s reverence for all that was best in the non-Christian world, and their exclusion from salvation, inevitable under Christian doctrine, saddened him and put a great strain on his mind — gran duol mi prese al cor quando lo ‘ntesi — great grief seized me at heart when I heard this.”¶ Said puts all this sloppiness and sophistry and specious argumentation in the service of the claim for which Orientalism is famous: Arabs and Muslims are the victims of a West that is driven to ravage the East, and not by tendencies to acquisition and conquest shared by all peoples but by the uniquely brutalizing principles of Western civilization. In a discussion of nineteenth-century European imperialism and its culmination in World War I, Ibn Warraq shows that elementary historical considerations swiftly dispose of Said’s signature thesis:¶ Where the French presence lasted fewer than four years before they were ignominiously expelled by the British and Turks, the Ottomans had been the masters of Egypt since 1517, a total of 280 years. Even if we count the later British and French protectorates, Egypt was under Western control for sixty-seven years, Syria for twenty-one years, and Iraq for only fifteen — and, of course, Saudi Arabia was never under Western control. Contrast this with southern Spain, which was under the Muslim yoke for 781 years, Greece for 381 years, and the splendid new Christian capital that eclipsed Rome — Byzantium — which is still in Muslim hands. But no Spanish or Greek politics of victimhood apparently exists.¶ Yet these facts are not likely to dissuade Said’s disciples, whose grievances against the West do not ultimately depend upon historical claims but rather are rooted in an underlying belief in the West’s distinctive intellectual blindness and moral depravity.¶ That’s why, in a display of staggering erudition, Ibn Warraq devotes the bulk of his somewhat quirky and quite compelling book to a defense of Western ideas, particularly as they have been expressed in Orientalist scholarship — philological, historical, archeological, literary, and philosophical — and in Western depictions of the Orient in painting, sculpture, music, and literature.¶ In Part II, he identifies rationalism, universalism, and self-criticism as “the tutelary guiding lights of, or the three golden threads running through, Western civilization.” He chronicles with gusto how from classical antiquity right up through the Orientalists of the nineteenth and twentieth centuries, these golden threads received expression in a curiosity about foreign lands and peoples, a respect for the variety of ways of being human, a desire to organize and systematize knowledge, and an inclination to put one’s beliefs to the test of empirical evidence and reasoned argument. To be sure, the West has often failed to live up to its principles. Nevertheless, as Ibn Warraq observes in a variety of contexts, whereas Islamic civilization, particularly over the last two hundred years, has tended to close itself off to the outside world, the historical record reveals that Western civilization is second to none in its passion for learning about and learning from other civilizations**.**

#### Perm do both—combining epistemological questioning with pragmatic political action produces the best knowledge and effective political engagement

Kratochwil, IR Prof @ Columbia, 8 [Friedrich Kratochwil is Assistant Professor of International Relations at Columbia University, Pragmatism in International Relations “Ten points to ponder about pragmatism” p11-25]

The more principled calls for a pragmatic approach, however, come from some IR specialists who have participated in previous ‘great debates’. Here the present anthology, as well as the recent contributions by Peter J. Katzenstein and Rudra Sil (Analytic Eclecticism, forthcoming), or my Tartu lecture (Kratochwil 2007a) resulting in a symposium, could be mentioned. These calls usually not only entail a move away from some of the foundationalist criteria of classical positivist science – be it those of empiricism, logical positivism or scientific realism – but they also invite us to give up on the universal suspicion of critical theory, or the endless deconstructions of some postmodern attempts of ‘theory construction’. Instead, the actual problem that such a pragmatic turn identifies is the mistaken attempt of reducing issues of praxis, and of the knowledge appropriate for it, to ‘philosophical’ or even metaphysical questions. Here the postulated primacy of ontology over epistemology (or vice versa), of ‘rump materialism’ over ‘idealism’ debates, come to mind (Wendt 1999). While proponents of ‘science’ and critical theory differ of course as to the proper criteria, beyond their mutual disdain there is the shared belief that somehow there has to be a perspective that shows things as they ‘really are’ and thus the quaestio juris of asserting something can be answered conclusively by a ‘quaestio facti’, that is, what is the case. Thus the Marxian assertions about ‘false consciousness’ are paralleled by admonitions á la Walt to see the world ‘as it is’, since questions of peace and war are too important for the field ‘to be diverted into a prolix and self indulgent discourse that is divorced from the real world’ (George 1994:106). Such a stance is already problematic in those sciences in which theoretical terms might not have clear correspondent phenomena in the world ‘out there’, and in which ‘indirect’ measures open up issues of interpretation and of the ‘weight’ of the evidence (see further in Kratochwil 2007b). Yet in the social world, which is not ‘natural’, our ways of referring to international politics are not independent of the very practices that establish that domain. This does not mean that anything is possible, or can be wished into existence, but it does mean that issues of appraisal involve us in operations quite different from those of simple observation or even complicated measurement. Classical pragmatists, such as William James (James 1909; see also Dewey 1917), had little patience with this type of ‘metaphysical disputes’, which are obviously interminable. Pragmatists notoriously argued for an active engagement with actual problems and strategies through creative experimentation, accepting the always incomplete nature of our knowledge. In fact, pragmatism is fundamentally misunderstood if it is treated as ‘second best’ try at ‘theorizing’, just as when we are ‘satisfied’ with less than perfect solutions because they somehow work. Instead, the emphasis is on pluralism and analytical and methodological eclecticism, which underlie a pragmatic orientation. As the rest of this chapter shows, this pragmatic orientation holds promise because of its heuristic potential. This potential is considerable when we analyse actions and practices that pose problems quite different from the traditional criteria specified for good ‘theories’. ‘Completeness’ and ‘timeliness’, rather than ‘rigour’ or atemporal ‘validity’, come to mind here. If we take these dimensions as important elements of practical life, a pragmatic approach needs to be taken seriously. Furthermore, if our perspectives on the social world always involve us as actors, who make and at the same time observe social reality, there is no single Archimedean point (the view from nowhere) from which everything can be viewed and appears ‘as it is’. To that extent, the argument for a pluralism of methods and approaches follows from the fact that all knowledge is always part of a certain perspective, and that direct tests against ‘reality’ are not available. Consequently, the orthodox notion that scientific ‘progress’ consists in coming nearer and nearer to the truth shows its ideological character. For one, it is on all fours with the empirical evidence of how the scientific enterprise developed. Thus the notion of a simple accumulation was not only debunked by Kuhn andthe general criticisms developed by the history of science (Kuhn 1970) but, more importantly, involves us in a logically untenable contradiction. Without knowing ‘reality’ independently of our specific theoretical inquiries, we can never know whether we are ‘nearer’ to the ‘truth’ (rather than being simply ‘somewhere else’). Otherwise we would need to argue that we can determine that we are nearer to the ‘goal’, even if we have no goal line against which we can make that assessment.2 This recognition puts a premium on ‘dialogue’ among practitioners utilizing competing theories rather than on the idea of ‘demonstration’ that speaks for itself. Analytical and methodological eclecticism recommends itself precisely because in practical contexts we cannot wait until we know ‘the truth’, whatever it might be. To that extent, insisting on methodological purity seems a problematic regulative idea. Instead, what we need is a self-conscious ‘trespassing’,ála Hirschman, of various research traditions, and a flexible utilization of their contribution to the problem at hand (Hirschman 1981). Trusting ‘paradigms’ might hinder rather than help with diagnosing the problem. Similarly, a blind reliance on methods in the sense ‘one size fits all’ is unlikely to deliver the desired ‘data’ (King et al. 1994). What is needed is a careful combination of methods and approaches that understands and respects the strengths and limitations of different research traditions and methods, and that combines and adapts (through ‘translation’ and other techniques) the different parts, while being fully attentive to their moorings in different descriptions of the world. While we are usually aware that this is the way to proceed, disciplinary limitations powerfully counteract these insights. For the strict disciplinarian, everything becomes a problem of ‘inference’ (as if problems of conceptualization did not exist). Similarly, elegance and rigour very often stand in competition with informational value, so that relying on them exclusively is hardly promising (Walt 1999). Finally, policies are prescribed as if, for example, economic data spoke for themselves, and as if measures such as large-scale dismissals of the workforce might not be interpreted differently in Tokyo and New York. We know, however, that in the former arena it might cause panic, while in the latter stock prices might rise as the observed ‘restructuring’ promises higher returns.3 In this chapter I want to defend pragmatism understood as an approach to knowledge generation. Pragmatism relies on pluralism and analytical eclecticism, and crucially takes its departure from acting rather than from reason itself. Against the ‘disciplinary’ injunctions familiar from Descartes and the ‘epistemological project’ underlying the standard arguments of positivism, I shall argue, first, that the emergence of a ‘pragmatic turn’ in the social sciences is not accidental. There is indeed a logical progression from the criticisms by the history of science, exemplified by Kuhn and others who first undermined the epistemological project, to the new ‘sociology of knowledge’ which emphasizes the communal aspects of scientific practices. This line continues in the reconfiguration of epistemology in science studies and the praxeological concerns which characterize Foucault’s and Bourdieu’s work. Second, I argue further that it might be illuminating to link these research enterprises with the more philosophically oriented concerns of everyday language, conventions and institutions – á la Searle and Rorty – and reconnect them with a philosophical tradition that explicitly addresses the problem of producing ‘useful’ knowledge, such as the classical pragmatism of Peirce and Dewey. This strategy promises to help us in identifying criteria for assessing our theoretical efforts, now that the old notions of universality, necessity, methodological rigour and near-automatic self-correction through ‘testing’ have been fatally undermined. Third, beyond placing IR and the analysis of politics in a wider context – quite different from the largely phantasmagoric understanding of a physics and a science that never was (Toulmin 2001) – I show that attempts of developing a ‘theoretical’ understanding of practice distort and hide important dimensions of action by either amalgamating practical knowledge to ‘theory’ or to téchne (know-how or ‘applied’ knowledge). To the extent that pragmatism starts with action, instead of some preconceived ontology or epistemology, it becomes a distinct and promising orientation for the analysis of practices and actions.

meaning generated and embraced by human beings and human societies, and further that social interests have something to do with how knowledge is produced and received, is not necessarily to argue that facts mean absolutely nothing or that all the different stories one could tell about reality are equally true or valid. Even as we recog­nize that how we interpret reality is not the simple outcome of direct and unmediated observation (or of experimentation, for the “hard” sciences), we are entitled to establish, and demand adherence to, what we might call community standards for truth, broadly agreed-upon ways of select­ing and treating relevant data and of making, supporting and challenging arguments, as well as procedures for avoiding gross distortion, not to mention fabrication.

This is something scholars in specific fields and disciplines have long done, and it is what makes it possible for them to talk with one another and collectively judge (or at least constructively argue about) the accuracy and utility of alternative interpretations and narratives. I certainly believe that my interpretation here is a reasonable one that conforms to the procedures and standards my fellow historians and other scholars have established in order to advance knowledge and avoid the production and dissemination of tendentious distortions and outright falsehoods, and I hope that those who read this book will agree.

#### No turns --- US intervention is inevitable --- it’s only a question of speed and effectiveness

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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, 1898 The Philippines, 1898-1902 China, 1900 Cuba, 1906 Nicaragua, 1910 & 1912 Mexico, 1914 Haiti, 1915 Dominican Republic, 1916 Mexico, 1917 World War I, 1917-1918 Nicaragua, 1927 World War II, 1941-1945 Korea, 1950-1953 Lebanon, 1958 Vietnam, 1963-1973 Dominican Republic, 1965 Grenada, 1983 Panama, 1989 First Persian Gulf war, 1991 Somalia, 1992 Haiti, 1994 Bosnia, 1995 Kosovo, 1999 Afghanistan, 2001-present Iraq, 2003-present¶ That 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.

**Deconstructive philosophy offers no tenable or sustainable political agenda --- makes it irrelevant to policymakers**

**Rojek and Turner 2k** Chris Rojek, professor of sociology and culture at Brunel University, West London, and Bryan Turner, Professor of Sociology and Head of the Faculty of Social and Political Sciences at Cambridge University, 2000 The Sociological Review, “Decorative sociology: towards a critique of the cultural turn” p. 638-9

We propose that Decorative Sociology privileges politicization and aestheticization over, what we would term, 'engaged detachment', in the analysis of human interaction. We offer the concept of 'engaged detachment' as an alternative to the role model of the organic intellectual, espoused in the cultural studies tradition. We return to take this point up in more detail in the next section of the paper. At this stage in the discussion, it is valuable to recap our central comments on Decorative Sociology, which consists of the elements of cultural studies and postmodernism that we have analyzed above. Expressed in summary form, these criticisms are: 1. There is an orientation to the analysis of human interaction, which is driven by theory and theoretical responsiveness to change, rather than a stable research agenda. Social history in practice becomes the history of theoretical changes. For example, there is a tendency to confuse the history of postmodernism as a theory with the history of postmodernity as a social and economic condition. With the decline of literary studies, reading theory replaced reading literature. There is a concomitant tendency towards theoreticism. 2. There is an absence of any commitment to historical or comparative analysis follows from the privileging of theory and the textual understanding of interaction. Texts have no history, because they exist in a timeless, placeless space of intertextuality. The intellectual narcissism of Orientalism is evident in the priority assigned to European (especially French) theory. Deconstructive methodology rejects classical sociology and adopts a literary analysis of texts which are assumed to have materiality. This theoretical strategy also precludes the possibility of cumulative theory. This emphasis on contemporaneous analysis places the burden of perpetual reinvention on social analysis since every time a new major revolution is claimed ('digital technology', 'globalization', 'post-Fordism', 'post-nation-state', 'hybridity', 'network society', 'web-world') the conceptual battery powering existing research traditions must be disconnected and replaced with a new energy source. **There is an endless and infinite transformation of theory paradigms**. With textual interpretation and understanding of analysis and interaction, the prominence of philosophy, and especially anti-humanist philosophy, in decorative sociology is no accident. By 'reading' social life as a text, decorative sociology equips itself with a payload of **endless terminological disputes** and esoteric debates about the disappearance of reality. The privileging of the cultural over the social and economic means that social and economic issues are interpreted as questions of cultural layering and analysis **focuses on deconstructing categories**. 3. The aestheticized (there are no universals) orientation is fused with a politicized (there is no final vocabulary) genre. There is both a rejection of cross-cultural and historical relevance and a sense of moral superiority about the correctness of the political views articulated. Cultural studies assumes the relevance and authority of its own interpretations while rejecting the possibility of any grand narrative. 4. Although profoundly politicized, Decorative Sociology has **no tenable or sustained political agenda**. To develop a detailed policy would be to take a position and **therefore challenge the commitment to relativism**. Instead of engaging with state politics, ornamentalism concentrates on the level of micro-politics, **thereby exacerbating the problem of its own relevance to politics or policy**

#### No prior questions---refuting assumptions is insufficent

Phil Arena 12, Assistant Professor of Political Science at SUNY Buffalo, PhD from Penn State, “The Role of Assumptions,” 12/13/2012, http://www.whiteoliphaunt.com/duckofminerva/2012/12/the-role-of-assumptions.html

Now, you may think that I’m just knocking over a strawman. After all, Brian already acknowledged that objectivity is impossible. I assume (heh) that he would be perfectly comfortable agreeing with me that we cannot know for a certainty that the past happened. (Though I’d be interested to see where the conversation goes if I’m mistaken in that respect.) The real issue is not whether it is possible to avoid making assumptions altogether, but whether the types of assumptions typically made by game theorists are so implausible as to render the models upon which they are built worthless. If I’ve understood him correctly (and I will grant that I may not have), Brian contends that they generally are. My sense is that Brian sees value to game-theoretic models rooted in psychology, as are often found in behavioral economics, but no others. If that is indeed his position, it will surprise no one to learn that I disagree. But it may surprise you to know that the reason I disagree is not that I’m willing to defend the truth-value of these assumptions. In some cases, I might actually be willing to argue that they’re less distorting than is commonly thought, but I’m happy to admit that most mainstream game-theoretic models, including those I analyze in my own work, contain a variety of assumptions that are patently false. The reason I disagree with Brian is that I reject the claim that any theoretical model is only as good as its assumptions. As should you. Because that is not a defensible position.¶ Those are strong words. I’m trying to avoid being as obnoxious as I was earlier today on Twitter, but I stand by them.¶ Models are like maps.\*\* They are objects that we use to help us get from where are (a state of relative ignorance) to where we want to be (a state of slightly improved understanding). To ask whether a map is “true” is as nonsensical as it is to ask whether a model, or the assumptions that comprise it, is “true”. No one has ever thrown their Garmin out the window while screaming, “Damn you! Where’s the elevation? The world is not flat!!” Depending on what you wish to know about the world, you might very well require a map with topographical information, however. When people like me say that we shouldn’t ask whether assumptions are true, only whether they are useful, we’re not simply insisting on a new name for the same thing. Whether an assumption is useful or not depends on the question you are asking. The simple bargaining models analyzed by Fearon 1995 are quite useful for helping us address the question of “why war and not negotiation?” They are not very useful for answering the question “how does the likelihood of war vary with the regime types of the belligerents?” To answer that question, you would need to make different assumptions. Just as the map you want when you’re driving through Boston is not the map you want when you’re exploring Boston on foot. If you’re on foot, you may well want a subway map. And note that I’m not just talking about the fact that different maps make different decisions about what to leave out. Many maps distort the relative size and shape of things. The information they do provide is often deliberately false. eWhen’re not just talking about accidental errors.¶ Take, for example, Fearon 1995.\*\*\* Brian notes, correctly, that if states were assumed to be risk-averse, the claim that there are always agreements both sides prefer to war would no longer hold. There is no disputing this. What is very much open to dispute, however, is what we should infer from this. As Brian would have it, “if [the assumption of risk-neutrality] turns out to be false, the model completely falls apart.”¶ That’s true only if you take “completely falls apart” to mean “contains other outcomes in equilibrium in addition to those that already exist.” And, yeah, the incentive to misrepresent private information, or rapid shifts in power, would still matter if we allowed for the possibility of risk-acceptance. (If anyone is interested in seeing a formal proof of this claim, please say so in the comments and I’ll be glad to write a follow-up post.) But Brian is absolutely right when he says “You don’t need any of that stuff about incentives to misrepresent one’s reservation price to explain war. Some just prefer it to peace, costly as it is.”¶ I’m just not sure that means what he thinks it means.¶ What Brian has argued (correctly) is that Fearon did not identify all possible explanations for war, only those that satisfy certain properties. So what? Does that mean that his work “is like a house with a rotten foundation. It will come crashing down”? Well, again, it depends on what one means by “crashing down”. Models very similar to Fearon’s have been used to generate non-obvious observable implications about war onset, duration, and outcome, and those implications have been empirically corroborated (see this paper, which tests a key prediction of this paper, or perhaps this paper, among a variety of others). That’s not my idea of “crashing down”.¶ If we stipulate that some leaders really enjoy taking risks, what does that get us? Well, if we can’t point to any observable information that would allow us to distinguish ex ante between those leaders that hold such preferences and those that do not, we’ve basically got a tautology. Why not just say that war is caused by warmongerism? I will grant you that such explanations are logically consistent — which is a property I value a great deal. But I’m not sure it’s particularly useful. I can point to observable factors that tell me when wars are more or less likely to happen if I focus on information and commitment problems. I’m not sure I can do the same by focusing on risk-acceptance.¶ Until now, we’ve also assumed that the only purpose of a model is to generate testable hypotheses about the world. Theoretical models can serve other purposes. If a dozen or so publications appear claiming that X causes Y because of A, B, and C, then a theoretical model that shows that premises A, B, and C do not logically imply a causal relationship between X and Y tells us something worth knowing. But I’ll admit that the nature of this type of contribution is more modest. It is more akin to identifying a plank of rotting wood in the bridge we’re trying to build than it is extending said bridge. I think that’s valuable, but I won’t try to sell it as something it’s not.¶ To sum up, there is no way to avoid making assumptions. If we were to literally assume nothing, our lives would be impossible. Scholarly inquiry of every kind would have to be abandoned. If instead we read Brian a bit more loosely and simply seek to avoid assumptions whose truth-value is highly suspect, things wouldn’t be quite so bad. But we’d still be giving up a lot more than Brian appreciates. I’m not, by any means, arguing that everyone should formalize the arguments — only asking that those who tout the virtue of pluralism practice what they preach.

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### Case

#### Neolib is inevitable and movements are getting smothered out of existence—no alternative economic system

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My first experience of police kettling was aged 16. It was May Day 2001, and the anti-globalisation movement was at its peak. The turn-of-the-century anti-capitalist movement feels largely forgotten today, but it was a big deal at the time. To a left-wing teenager growing up in an age of unchallenged neo-liberal triumphalism, just to have "anti-capitalism" flash up in the headlines was thrilling. Thousands of apparently unstoppable protesters chased the world's rulers from IMF to World Bank summits – from Seattle to Prague to Genoa – and the authorities were rattled.

Today, as protesters in nearly a thousand cities across the world follow the example set by the Occupy Wall Street protests, it's worth pondering what happened to the anti-globalisation movement. Its activists did not lack passion or determination. But they did lack a coherent alternative to the neo-liberal project. With no clear political direction, the movement was easily swept away by the jingoism and turmoil that followed 9/11, just two months after Genoa.

Don't get me wrong: the Occupy movement is a glimmer of sanity amid today's economic madness. By descending on the West's financial epicentres, it reminds us of how a crisis caused by the banks (a sentence that needs to be repeated until it becomes a cliché) has been cynically transformed into a crisis of public spending. The founding statement of Occupy London puts it succinctly: "We refuse to pay for the banks' crisis." The Occupiers direct their fire at the top 1 per cent, and rightly so – as US billionaire Warren Buffett confessed: "There's class warfare, all right, but it's my class, the rich class, that's making war, and we're winning."

The Occupy movement has provoked fury from senior US Republicans such as Presidential contender Herman Cain who – predictably – labelled it "anti-American". They're right to be worried: those camping outside banks threaten to refocus attention on the real villains, and to act as a catalyst for wider dissent. But a coherent alternative to the tottering global economic order remains, it seems, as distant as ever. Neo-liberalism crashes around, half-dead, with no-one to administer the killer blow.

There's always a presumption that a crisis of capitalism is good news for the left. Yet in the Great Depression, fascism consumed much of Europe. The economic crisis of the 1970s did lead to a resurgence of radicalism on both left and right. But, spearheaded by Thatcherism and Reaganism, the New Right definitively crushed its opposition in the 1980s.This time round, there doesn't even seem to be an alternative for the right to defeat. That's not the fault of the protesters. In truth, the left has never recovered from being virtually smothered out of existence. It was the victim of a perfect storm: the rise of the New Right; neo-liberal globalisation; and the repeated defeats suffered by the trade union movement.

But, above all, it was the aftermath of the collapse of Communism that did for the left. As US neo-conservative Midge Decter triumphantly put it: "It's time to say: We've won. Goodbye." From the British Labour Party to the African National Congress, left-wing movements across the world hurtled to the right in an almost synchronised fashion. It was as though the left wing of the global political spectrum had been sliced off. That's why, although we live in an age of revolt, there remains no left to give it direction and purpose.

#### Capitalism is the only system capable of having environmental movements – The alternative will re-create governments that cause environmental catastrophe

Roszak, 92 [Theodore Roszak, Professor emeritus of history at California State University, 1992, “The Voice of the Earth,” p. 34]

As destructive as the market economics have been in their treatment of the environment, we now know that the social economies have an even worse history**.** Glasnost has revealed a blasted landscape stretching from the Danube to the Bering Sea. As far as we know,no one spoke out against the devastation; few knew it was taking place. It is not that socialism inherently more anti-environmental than capitalism; rather its political organization has been far more effective in beating down all forms of resistance to centralized power. Left-wing politics, born to a hard, exclusive, and angry focus on issues of social justice,never encouraged the creation of an environmental agenda; worse still, the dictatorial methods of its leaders never allowed others freedom to take up the cause. A society like Stalin’s Russia, willing to exterminate its own people by the million, was hardly apt to fret for the well-being of the nation's lakes and forests.In contrast, the capitalist West has provided sufficient pluralistic space to allow an environmental movement to must effective resistance. In a world of harsh political realities and imperfect choices, this is no small virtue. Making use of that pluralism to open a searching, worldwide reappraisal of urban-industrial values is one of the great environmental benefits we stand to gain from the end of the cold war.If the Earth can be said to have an interest in our ideological contretemps, this is it.

#### Dismantling capitalism would increase pollution because the efficiencies of economies of scale would be lost

Lewis, 94 [Martin Lewis, Professor in International History and Interim Director of the International Relations at Stanford University, 1994, *Green Delusions: An Environmentalist Critique of Radical Environmentalism*, Page 11-12]

More frightening, and more immediate, is the specter of a few radicals actually opposing necessary environmental reforms. Such individuals conclude that "reform environmentalism" is "worse than useless because by correcting short-term symptoms it postpones the necessary reconstruction of the entire human relationship with the natural world" (Nash 1989: I 50). From here it is a short step to argue that reform would only forestall an ecological apocalypse-which some evidently believe is a necessary precondition for the construction of an environmentally benign social order. The insanity of pushing the planet even closer to destruction in order to save it in the future should be readily apparent. While such are the fantasies only of the most moonstruck extremists, even moderate radicals (if one may be permitted the oxymoron) espouse an ideology that would preclude the development of an ecologically sustainable economy. Most environmentalists, for instance, aver that a sustainable economy must be based on solar power. Yet the radicals' agenda calling for total decentralization, deurbanization, economic autarky, a ban on most forms of high technology, and the complete dismantling of capitalism would not only prevent future improvements in solar power but would actually destroy the gains that have already been made. While most radical greens embrace "appropriate technologies" (just as anti-environmentalists denounce "pollution"), their program would, if enacted, undercut the foundations of all technological research and development. Appropriate technology, in fact, often turns out to mean little more than well-engineered medieval apparatuses: we may expect crude mechanical power from the wind, but certainly not electricity from the sun. Equally important, the systematic dismantling of large economic organizations in favor of small ones would likely result in a substantial increase in pollution, since few small-scale firms are able to devise, or afford, adequate pollution abatement equipment.

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#### Pure rejection reproduces sovereignty and exploitation. Only political action can end global oppression

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Yet, ironically if not tragically, dissident IR also paralyzes itself into non-action. While it challenges the status quo, dissident IR fails to transform it. Indeed, dissident IR claims that a "coherent" paradigm or research program - even an alternative one - reproduces the stifling parochialism and hidden power-mongering of sovereign scholarship. "Any agenda of global politics informed by critical social theory perspectives," writes Jim George "must forgo the simple, albeit self-gratifying, options inherent in ready-made alternative Realisms and confront the dangers, closures, paradoxes, and complicities associated with them.t'-' Even references to a "real world," dissidents argue, repudiate the very meaning of dissidence given their sovereign presumption of a universalizable, testable Reality." What dissident scholarship opts for, instead, is a sense of disciplinary crisis that "resonates with the effects of marginal and dissident movements in all sorts of other localities."> Despite its emancipatory intentions, this approach effectively leaves the prevailing prison of sovereignty intact. It doubly incarcerates when dissident IR highlights the layers of power that oppress without offering a heuristic, not to mention a program, for emancipatory action." Merely politicizing the supposedly non-political neither guides emancipatory action nor guards it against demagogueryf At best, dissident IR sanctions a detached criticality rooted (ironically) in Western modernity. Michael Shapiro, for instance, advises the dissident theorist to take "a critical distance" or "position offshore" from which to "see the possibility of change."? But what becomes of those who know they are burning in the hells of exploitation, racism, sexism, starvation, civil war, and the like while the esoteric dissident observes "critically" from offshore? What hope do they have of overthrowing these shackles of sovereignty? In not answering these questions, dissident IR ends up reproducing, despite avowals to the contrary, the sovereign outcome of discourse divorced from practice, analysis from policy, deconstruction from reconstruction, particulars from universals, and critical theory from problem-solving.