# 1NC

### T Authority

#### Interpretation: Topical affirmatives must advocate legal restrictions on the president’s authority to indefinitely detain

#### The agent and verb of the topic indicate a debate about hypothetical government action

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

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

#### Statutory restrictions are legislative

The Law Dictionary 13 “What is Statutory Restriction?, The Law Dictionary: **Featuring Black’s Law Dictionary Free Online Legal Dictionary 2nd Edition**, Accessed 7-22-2013, http://thelawdictionary.org/statutory-restriction/

What is STATUTORY RESTRICTION?

Limits or controls that have been place on activities by its ruling legislation.

#### “Judicial restrictions” are court restrictions on executive war powers

Singer 7 (Jana, Professor of Law, University of Maryland School of Law, SYMPOSIUM A HAMDAN QUARTET: FOUR ESSAYS ON ASPECTS OF HAMDAN V. RUMSFELD: HAMDAN AS AN ASSERTION OF JUDICIAL POWER, Maryland Law Review 2007 66 Md. L. Rev. 759)

n25. See, e.g., Dep't of the Navy v. Egan, 484 U.S. 518, 530 (1988) (noting the reluctance of courts "to intrude upon the authority of the Executive in military and national security affairs"); see also Katyal, supra note 1, at 84 (noting that "in war powers cases, the passive virtues operate at their height to defer adjudication, sometimes even indefinitely"); Harold Hongju Koh, Why the President (Almost) Always Wins in Foreign Affairs: Lessons of the Iran-Contra Affair, 97 Yale L.J. 1255, 1313-17 (1988) (discussing the Court's use of justiciability doctrines to refuse to hear challenges to the President's authority in cases involving foreign affairs); Gregory E. Maggs, The Rehnquist Court's Noninterference with the Guardians of National Security, 74 Geo. Wash. L. Rev. 1122, 1124-38 (2006) (discussing the Rehnquist Court's general policy of nonintervention in cases concerning actions of governmental agencies and political entities in national security matters); Peter E. Quint, Reflections on the Separation of Powers and Judicial Review at the End of the Reagan Era, 57 Geo. Wash. L. Rev. 427, 433-34 (1989) (discussing the use of the political question doctrine as a means to avoid judicial restrictions on presidential power in cases involving military force).

#### Authority refers to permission given to take an action

Ellen Taylor 96, Associate Professor, Georgia State University College of Law, NEW AND UNJUSTIFIED RESTRICTIONS ON DELAWARE DIRECTORS' AUTHORITY, 21 Del. J. Corp. L. 870

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

b. Agency Concepts

Agency principles are relevant to at least two issues in the Paramount case: the Paramount board's power and authority to cause Paramount to enter into binding contracts with Viacom, and QVC's standing to sue Paramount to invalidate the contracts. Although they are technically neither agents nor trustees, directors have been described as agents of the corporation and its shareholders, n191 as trustees, n192 and as fiduciaries. n193

 [\*872]

Power and authority of the board. An agent is one who acts on behalf of a principal, and subject to the principal's control. n194 Agents have the power and authority to incur legal obligations that bind their principals. n195 This authority may be either expressly or impliedly communicated by the principal to the agent (actual authority), or expressly or impliedly communicated by the principal to a third party (apparent authority). n196 Agents frequently have power that exceeds their authority to act on behalf of their principals (inherent agency power). n197 Although acts outside an agent's actual authority may be wrongful, and may subject the agent to personal liability to the principal, the acts may legally bind the principal vis- -vis third parties. n198

#### Violation: the aff does not advocate a statutory or judicial restriction on Presidential authority.

#### The specific words in the resolution matter because a general subject is insufficient grounds for debate---effective exchange requires a specific point of difference

Steinberg and Freeley 13, \* David, Lecturer in Communication studies and rhetoric. Advisor to Miami Urban Debate League. Director of Debate at U Miami, Former President of CEDA. And \*\* Austin, attorney who focuses on criminal, personal injury and civil rights law, JD, Suffolk University, *Argumentation and Debate***,** *Critical Thinking for Reasoned Decision Making*, 121-4

Debate is a means of settling differences, so there must be a controversy, a difference of opinion or a conflict of interest before there can be a debate. If everyone is in agreement on a feet or value or policy, there is no need or opportunity for debate; the matter can be settled by unanimous consent. Thus, for example, it would be pointless to attempt to debate "Resolved: That two plus two equals four,” because there is simply no controversy about this state­ment. Controversy is an essential prerequisite of debate. Where there is no clash of ideas, proposals, interests, or expressed positions of issues, there is no debate. Controversy invites decisive choice between competing positions. Debate cannot produce effective decisions without clear identification of a question or questions to be answered. For example, general argument may occur about the broad topic of illegal immigration. How many illegal immigrants live in the United States? What is the impact of illegal immigration and immigrants on our economy? What is their impact on our communities? Do they commit crimes? Do they take jobs from American workers? Do they pay taxes? Do they require social services? Is it a problem that some do not speak English? Is it the responsibility of employers to discourage illegal immigration by not hiring undocumented workers? Should they have the opportunity to gain citizenship? Does illegal immigration pose a security threat to our country? Do illegal immigrants do work that American workers are unwilling to do? Are their rights as workers and as human beings at risk due to their status? Are they abused by employers, law enforcement, housing, and businesses? How are their families impacted by their status? What is the moral and philosophical obligation of a nation state to maintain its borders? Should we build a wall on the Mexican border, establish a national identification card, or enforce existing laws against employers? Should we invite immigrants to become U.S. citizens? Surely you can think of many more concerns to be addressed by a conversation about the topic area of illegal immigration. Participation in this “debate” is likely to be emotional and intense. However, it is not likely to be productive or useful without focus on a particular question and identification of a line demarcating sides in the controversy. To be discussed and resolved effectively, controversies are best understood when seated clearly such that all parties to the debate share an understanding about the objec­tive of the debate. This enables focus on substantive and objectively identifiable issues facilitating comparison of competing argumentation leading to effective decisions. Vague understanding results in unfocused deliberation and poor deci­sions, general feelings of tension without opportunity for resolution, frustration, and emotional distress, as evidenced by the failure of the U.S. Congress to make substantial progress on the immigration debate. Of course, arguments may be presented without disagreement. For exam­ple, claims are presented and supported within speeches, editorials, and advertise­ments even without opposing or refutational response. Argumentation occurs in a range of settings from informal to formal, and may not call upon an audi­ence or judge to make a forced choice among competing claims. Informal dis­course occurs as conversation or panel discussion without demanding a decision about a dichotomous or yes/no question. However, by definition, debate requires "reasoned judgment on a proposition. The proposition is a statement about which competing advocates will offer alternative (pro or con) argumenta­tion calling upon their audience or adjudicator to decide. The proposition pro­vides focus for the discourse and guides the decision process. Even when a decision will be made through a process of compromise, it is important to iden­tify the beginning positions of competing advocates to begin negotiation and movement toward a center, or consensus position. It is frustrating and usually unproductive to attempt to make a decision when deciders are unclear as to what the decision is about. The proposition may be implicit in some applied debates (“Vote for me!”); however, when a vote or consequential decision is called for (as in the courtroom or in applied parliamentary debate) it is essential that the proposition be explicitly expressed (“the defendant is guilty!”). In aca­demic debate, the proposition provides essential guidance for the preparation of the debaters prior to the debate, the case building and discourse presented during the debate, and the decision to be made by the debate judge after the debate. Someone disturbed by the problem of a growing underclass of poorly educated, socially disenfranchised youths might observe, “Public schools are doing a terri­ble job! They' are overcrowded, and many teachers are poorly qualified in their subject areas. Even the best teachers can do little more than struggle to maintain order in their classrooms." That same concerned citizen, facing a complex range of issues, might arrive at an unhelpful decision, such as "We ought to do some­thing about this” or, worse, “It’s too complicated a problem to deal with." Groups of concerned citizens worried about the state of public education could join together to express their frustrations, anger, disillusionment, and emotions regarding the schools, but without a focus for their discussions, they could easily agree about the sorry state of education without finding points of clarity or potential solutions. A gripe session would follow. But if a precise question is posed—such as “What can be done to improve public education?”—then a more profitable area of discussion is opened up simply by placing a focus on the search for a concrete solution step. One or more judgments can be phrased in the form of debate propositions, motions for parliamentary debate, or bills for legislative assemblies, The statements "Resolved: That the federal government should implement a program of charter schools in at-risk communities” and “Resolved; That the state of Florida should adopt a school voucher program" more clearly identify specific ways of dealing with educational problems in a manageable form, suitable for debate. They provide specific policies to be investigated and aid discussants in identifying points of difference. This focus contributes to better and more informed decision making with the potential for better results. In aca­demic debate, it provides better depth of argumentation and enhanced opportu­nity for reaping the educational benefits of participation. In the next section, we will consider the challenge of framing the proposition for debate, and its role in the debate. To have a productive debate, which facilitates effective decision making by directing and placing limits on the decision to be made, the basis for argument should be clearly defined. If we merely talk about a topic, such as ‘"homeless­ness,” or “abortion,” Or “crime,” or “global warming,” we are likely to have an interesting discussion but not to establish a profitable basis for argument. For example, the statement “Resolved: That the pen is mightier than the sword” is debatable, yet by itself fails to provide much basis for dear argumen­tation. If we take this statement to mean Iliad the written word is more effec­tive than physical force for some purposes, we can identify a problem area: the comparative effectiveness of writing or physical force for a specific purpose, perhaps promoting positive social change. (Note that “loose” propositions, such as the example above, may be defined by their advocates in such a way as to facilitate a clear contrast of competing sides; through definitions and debate they “become” clearly understood statements even though they may not begin as such. There are formats for debate that often begin with this sort of proposition. However, in any debate, at some point, effective and meaningful discussion relies on identification of a clearly stated or understood proposition.) Back to the example of the written word versus physical force. Although we now have a general subject, we have not yet stated a problem. It is still too broad, too loosely worded to promote well-organized argument. What sort of writing are we concerned with—poems, novels, government documents, web­site development, advertising, cyber-warfare, disinformation, or what? What does it mean to be “mightier" in this context? What kind of physical force is being compared—fists, dueling swords, bazookas, nuclear weapons, or what? A more specific question might be, “Would a mutual defense treaty or a visit by our fleet be more effective in assuring Laurania of our support in a certain crisis?” The basis for argument could be phrased in a debate proposition such as “Resolved: That the United States should enter into a mutual defense treaty with Laurania.” Negative advocates might oppose this proposition by arguing that fleet maneuvers would be a better solution. This is not to say that debates should completely avoid creative interpretation of the controversy by advo­cates, or that good debates cannot occur over competing interpretations of the controversy; in fact, these sorts of debates may be very engaging. The point is that debate is best facilitated by the guidance provided by focus on a particular point of difference, which will be outlined in the following discussion.

#### Vote neg

#### 1. Preparation and clash—changing the topic post facto manipulates balance of prep, which structurally favors the aff because they speak last and permute alternatives—strategic fairness is key to engaging a well-prepared opponent

#### Topical fairness requirements are key to meaningful dialogue—monopolizing strategy and prep makes the discussion one-sided and subverts any meaningful neg role

Ryan Galloway 7, Samford Comm prof, Contemporary Argumentation and Debate, Vol. 28, 2007

Debate as a dialogue sets an argumentative table, where all parties receive a relatively fair opportunity to voice their position. Anything that fails to allow participants to have their position articulated denies one side of the argumentative table a fair hearing. The affirmative side is set by the topic and fairness requirements. While affirmative teams have recently resisted affirming the topic, in fact, the topic selection process is rigorous, taking the relative ground of each topic as its central point of departure.¶ Setting the affirmative reciprocally sets the negative. The negative crafts approaches to the topic consistent with affirmative demands. The negative crafts disadvantages, counter-plans, and critical arguments premised on the arguments that the topic allows for the affirmative team. According to fairness norms, each side sits at a relatively balanced argumentative table.¶ When one side takes more than its share, competitive equity suffers. However, it also undermines the respect due to the other involved in the dialogue. When one side excludes the other, it fundamentally denies the personhood of the other participant (Ehninger, 1970, p. 110). A pedagogy of debate as dialogue takes this respect as a fundamental component. A desire to be fair is a fundamental condition of a dialogue that takes the form of a demand for equality of voice. **Far from** being **a banal request for links** to a disadvantage, fairness is a demand for respect, a demand to be heard, a demand that a voice backed by literally months upon **months of preparation**, research, and critical thinking not be silenced.¶ Affirmative cases that suspend basic fairness norms **operate to exclude** particular negative strategies. Unprepared, one side comes to the argumentative table unable to meaningfully participate in a dialogue. They are unable to “understand what ‘went on…’” and are left to the whims of time and power (Farrell, 1985, p. 114). Hugh Duncan furthers this line of reasoning:¶ Opponents not only tolerate but honor and respect each other because in doing so they enhance their own chances of thinking better and reaching sound decisions. Opposition is necessary because it sharpens thought in action. We assume that argument, discussion, and talk, among free an informed people who subordinate decisions of any kind, because it is only through such discussion that we reach agreement which binds us to a common cause…If we are to be equal…relationships among equals must find expression in many formal and informal institutions (Duncan, 1993, p. 196-197).¶ **Debate compensates for the exigencies of the world by offering a framework that maintains equality for the sake of the conversation** (Farrell, 1985, p. 114).¶ For example, an affirmative case on the 2007-2008 college topic might defend neither state nor international action in the Middle East, and yet claim to be germane to the topic in some way. The case essentially denies the arguments that state action is oppressive or that actions in the international arena are philosophically or pragmatically suspect. Instead of allowing for the dialogue to be modified by the interchange of the affirmative case and the negative response, the affirmative subverts any meaningful role to the negative team, preventing them from offering effective “counter-word” and undermining the value of a meaningful exchange of speech acts. **Germaneness and other substitutes for topical action do not accrue the dialogical benefits** of topical advocacy.

#### 2. substantive regulations that demarcate limits are necessary for dialogue---refusal to tailor their arguments to normative, public stances shuts down the possibility for discussion and democratic respect

John Dryzek 6, Professor of Social and Political Theory, The Australian National University, Reconciling Pluralism and Consensus as Political Ideals, American Journal of Political Science,Vol. 50, No. 3, July 2006, Pp. 634–649

A more radical contemporary pluralism is suspicious of liberal and communitarian devices for reconciling difference. Such a critical pluralism is associated with agonists such as Connolly (1991), Honig (1993), and Mouffe (2000), and difference democrats such as Young (2000). As Honig puts it, “Difference is just another word for what used to be called pluralism” (1996, 60). Critical pluralists resemble liberals in that they begin from the variety of ways it is possible to experience the world, but stress that the experiences and perspectives of marginalized and oppressed groups are likely to be very different from dominant groups. They also have a strong suspicion ofliberal theory that looks neutral but in practice supports and serves the powerful.

Difference democrats are hostile to consensus, partly because consensus decisionmaking (of the sort popular in 1970s radical groups) conceals informal oppression under the guise of concern for all by disallowing dissent (Zablocki 1980). But the real target is political theory that deploys consensus, especially deliberative and liberal theory. Young (1996, 125–26) argues that the appeals to unity and the common good that deliberative theorists under sway of the consensus ideal stress as the proper forms of political communication can often be oppressive. For deliberation so oriented all too easily equates the common good with the interests of the more powerful, thus sidelining legitimate concerns of the marginalized. Asking the underprivileged to set aside their particularistic concerns also means marginalizing their favored forms of expression, especially the telling of personal stories (Young 1996, 126).3 Speaking for an agonistic conception of democracy (to which Young also subscribes; 2000, 49–51), Mouffe states:

To negate the ineradicable character of antagonism and aim at a universal rational consensus— that is the real threat to democracy. Indeed, this can lead to violence being unrecognized and hidden behind appeals to “rationality,” as is often the case in liberal thinking. (1996, 248)

Mouffe is a radical pluralist: “By pluralism I mean the end of a substantive idea of the good life” (1996, 246). But neither Mouffe nor Young want to abolish communication in the name of pluralism and difference; much of their work advocates sustained attention to communication. Mouffe also cautions against uncritical celebration of difference, for some differences imply “subordination and should therefore be challenged by a radical democratic politics” (1996, 247). Mouffe raises the question of the terms in which engagement across difference might proceed. Participants should ideally accept that the positions of others are legitimate, though not as a result of being persuaded in argument. Instead, it is a matter of being open to conversion due to adoption of a particular kind of democratic attitude that converts antagonism into agonism, fighting into critical engagement, enemies into adversaries who are treated with respect. Respect here is notjust (liberal) toleration, but positive validation of the position of others. For Young, a communicative democracy would be composed of people showing “equal respect,” under “procedural rules of fair discussion and decisionmaking” (1996, 126). Schlosberg speaks of “agonistic respect” as “a critical pluralist ethos” (1999, 70).

Mouffe and Young both want pluralism to be regulated by a particular kind of attitude, be it respectful, agonistic, or even in Young’s (2000, 16–51) case reasonable.Thus neither proposes unregulated pluralism as an alternative to (deliberative) consensus. This regulation cannot be just procedural, for that would imply “anything goes” in terms of the substance of positions. Recall thatMouffe rejects differences that imply subordination. Agonistic ideals demand judgments about what is worthy of respect and what is not. Connolly (1991, 211) worriesabout dogmatic assertions and denials of identity that fuel existential resentments that would have to be changed to make agonism possible. Young seeks “transformation of private, self-regarding desires into public appeals to justice” (2000, 51). Thus for Mouffe, Connolly, and Young alike, regulative principles for democratic communication are not just attitudinal or procedural; they also refer to the substance of the kinds of claims that are worthy of respect. These authors would not want to legislate substance and are suspicious of the content of any alleged consensus. But in retreating from “anything goes” relativism, they need principles to regulate the substance of what rightfully belongs in democratic debate.

#### The impact outweighs—deliberative debate models impart skills vital to respond to existential threats

Christian O. Lundberg 10 Professor of Communications @ University of North Carolina, Chapel Hill, “Tradition of Debate in North Carolina” in Navigating Opportunity: Policy Debate in the 21st Century By Allan D. Louden, p. 311

The second major problem with the critique that identifies a naivety in articulating debate and democracy is that it presumes that the primary pedagogical outcome of debate is speech capacities. But the democratic capacities built by debate are not limited to speech—as indicated earlier, debate builds capacity for critical thinking, analysis of public claims, informed decision making, and better public judgment. If the picture of modem political life that underwrites this critique of debate is a pessimistic view of increasingly labyrinthine and bureaucratic administrative politics, rapid scientific and technological change outpacing the capacities of the citizenry to comprehend them, and ever-expanding insular special-interest- and money-driven politics, it is a puzzling solution, at best, to argue that these conditions warrant giving up on debate. If democracy is open to rearticulation, it is open to rearticulation precisely because as the challenges of modern political life proliferate, the citizenry's capacities can change, which is one of the primary reasons that theorists of democracy such as Ocwey in The Public awl Its Problems place such a high premium on education (Dewey 1988,63, 154). Debate provides an indispensible form of education in the modem articulation of democracy because it builds precisely the skills that allow the citizenry to research and be informed about policy decisions that impact them, to sort through and evaluate the evidence for and relative merits of arguments for and against a policy in an increasingly information-rich environment, and to prioritize their time and political energies toward policies that matter the most to them.

The merits of debate as a tool for building democratic capacity-building take on a special significance in the context of information literacy. John Larkin (2005, HO) argues that one of the primary failings of modern colleges and universities is that they have not changed curriculum to match with the challenges of a new information environment. This is a problem for the course of academic study in our current context, but perhaps more important, argues Larkin, for the future of a citizenry that will need to make evaluative choices against an increasingly complex and multimediated information environment (ibid-). Larkin's study tested the benefits of debate participation on information-literacy skills and concluded that in-class debate participants reported significantly higher self-efficacy ratings of their ability to navigate academic search databases and to effectively search and use other Web resources:

To analyze the self-report ratings of the instructional and control group students, we first conducted a multivariate analysis of variance on all of the ratings, looking jointly at the effect of instmction/no instruction and debate topic . . . that it did not matter which topic students had been assigned . . . students in the Instnictional [debate) group were significantly more confident in their ability to access information and less likely to feel that they needed help to do so----These findings clearly indicate greater self-efficacy for online searching among students who participated in (debate).... These results constitute strong support for the effectiveness of the project on students' self-efficacy for online searching in the academic databases. There was an unintended effect, however: After doing ... the project, instructional group students also felt more confident than the other students in their ability to get good information from Yahoo and Google. It may be that the library research experience increased self-efficacy for any searching, not just in academic databases. (Larkin 2005, 144)

Larkin's study substantiates Thomas Worthcn and Gaylcn Pack's (1992, 3) claim that debate in the college classroom plays a critical role in fostering the kind of problem-solving skills demanded by the increasingly rich media and information environment of modernity. Though their essay was written in 1992 on the cusp of the eventual explosion of the Internet as a medium, Worthcn and Pack's framing of the issue was prescient: the primary question facing today's student has changed from how to best research a topic to the crucial question of learning how to best evaluate which arguments to cite and rely upon from an easily accessible and veritable cornucopia of materials.

There are, without a doubt, a number of important criticisms of employing debate as a model for democratic deliberation. But cumulatively, the evidence presented here warrants strong support for expanding debate practice in the classroom as a technology for enhancing democratic deliberative capacities. The unique combination of critical thinking skills, research and information processing skills, oral communication skills, and capacities for listening and thoughtful, open engagement with hotly contested issues argues for debate as a crucial component of a rich and vital democratic life. In-class debate practice both aids students in achieving the best goals of college and university education, and serves as an unmatched practice for creating thoughtful, engaged, open-minded and self-critical students who are open to the possibilities of meaningful political engagement and new articulations of democratic life.

Expanding this practice is crucial, if only because the more we produce citizens that can actively and effectively engage the political process, the more likely we are to produce revisions of democratic life that are necessary if democracy is not only to survive, but to thrive. Democracy faces a myriad of challenges, including: domestic and international issues of class, gender, and racial justice; wholesale environmental destruction and the potential for rapid climate change; emerging threats to international stability in the form of terrorism, intervention and new possibilities for great power conflict; and increasing challenges of rapid globalization including an increasingly volatile global economic structure. More than any specific policy or proposal, an informed and active citizenry that deliberates with greater skill and sensitivity provides one of the best hopes for responsive and effective democratic governance, and by extension, one of the last best hopes for dealing with the existential challenges to democracy [in an] increasingly complex world.

### T Indefinite Detention

#### The phrase “indefinite detention” includes immigrant detention

PHR 11 [Physicians for Human Rights, an independent, non-profit organization that uses medical and scientific expertise to investigate human rights violations and advocate for justice, “Punishment Before Justice: Indefinite Detention in the US,” June 2011, https://s3.amazonaws.com/PHR\_Reports/indefinite-detention-june2011.pdf]

Individuals who are indefinitely detained are, by definition, individuals against whom no charges have been brought and therefore against whom no conviction has been obtained. Unlike individuals convicted of crimes, whose sentences are a form of lawful punishment so long as it is not cruel or unusual, detainees may not, consistent with due process, be punished at all. The US government’s obligation to ensure that detainees do not suffer severe mental and physical harm is accordingly greater than the government’s obligation to protect prison inmates from such harms. This report demonstrates, however, that the harms endured by individuals held indefinitely are unconstitutionally punitive, thus violating detainees’ rights to due process. Moreover, the serious harm that already traumatized populations face constitutes cruel, inhuman, or degrading treatment, in violation of domestic and international law. ¶ Of added concern is the fact that indefinite detention operates primarily in the immigration and national security contexts, and consequently imposes hardships on individuals who have no vote, and hence, no voice. These policies therefore permit politicians to appear tough on national security and immigration matters while sidestepping political fallout they may fear would develop if they advocated solutions to these difficult problems that were grounded in the US Constitution and our international human rights and humanitarian obligations. Moreover, the lines between these policy concerns may be intentionally blurred for political purposes by, for example, conflating questions of immigration and asylum with concerns about terrorism and economic refugees. Because the judiciary has historically been hesitant to intrude on legislative and executive decision-making in these areas, such policies are likely to remain as insulated from serious legal challenge as the policy-makers are from their affected constituents. In light of the harms indefinite detention causes, this deference is unwarranted.

#### Presidential authority over immigrant detention is not a war power

Johnson et al 9 [Kevin R. Johnson, Dean and Mabie-Apallas Professor of Public Interest Law and Chicana/o Studies at the UC Davis School of Law; Raquel Aldana, Professor of Law and Director of the Inter-American Program, McGeorge School of Law, University of the Pacific; Bill Ong Hing, Professor at the University of San Francisco School of Law; Leticia Saucedo, Professor of Law and Director of Clinical Legal Education at UC Davis School of Law; Enid F. Trucios-Haynes, Professor of Law, Brandeis School of Law, University of Louisville; “Understanding Immigration Law,” Chapter 3: The Federal Immigration Powers, pp. 96-98]

Justice Daniel, dissenting in the *Passenger Cases,*38 conceded that the War Power provision authorizes Congress to regulate “alien enemies” –i.e., nationals of countries with which the United States is at war, but doubted whether it could justify the general regulation of immigration. There are obvious limits on the War Power as a general justification for immigration regulation by the federal government. It fortunately is relatively rare for war and conflict to be implicated by the admission and removal of a specific immigrant. As a practical matter, only a small number of a nation’s admissions and deportations will truly implicate war or foreign relations.

#### Vote negative for limits---including non-war powers detention doubles the size of the topic and makes our research burden unmanageable

### CP 1

#### Rahim and I advocate the deconstruction of indefinite imprisonment as a manifestation of black criminality.

#### Using the word “detain” is unethical and turns solvency—“imprison” is more accurate—hold the 1ac accountable

Margaret Sullivan 13, April 12, “‘Targeted Killing,’ ‘Detainee’ and ‘Torture’: Why Language Choice Matters,” http://publiceditor.blogs.nytimes.com/2013/04/12/targeted-killing-detainee-and-torture-why-language-choice-matters/?\_r=0

If it’s torture, why call it a “harsh interrogation technique”? If it’s premeditated assassination, why call it a “targeted killing”? And if a suspected terrorist has been locked up at Guantánamo Bay for more than a decade, why call him a “detainee”? Many of the complaints I get in the public editor’s in-box are about phrases that The Times uses. These writers complain that **language** choices make a **huge difference in perception**, **especially** when they accept and adopt government-speak. One reader, Donald Mintz, a professor emeritus at Montclair State University, objects to the unquestioning use of “defense” as in “defense budget,” and prefers “military.” He wrote: “Outside of direct or indirect quotation the term ‘defense’ should be used sparingly and with the greatest caution. Who, after all, could be against ‘defense’? But at least some of us are against excessive militarism.” Another reader, Roscoe Gort, commented on an article this week, “Targeted Killing Comes to Define War on Terror.” “Since 9/11 The New York Times has shown a great willingness to adopt the Newspeak (‘War Is Peace’) terminology from successive administrations in Washington,” he wrote. “War on terror” was just one example, he said, and wanted to know how The Times decides what terms to use. And, he wondered, “Do reporters like Scott Shane really write this way, or does some editor automatically change all the occurrences of “murder” or “assassination” in the stories they file into “targeted killing”? And Gene Krzyzynski, a veteran copy editor at The Buffalo News and a longtime New York Times reader, objected to the continued use of the term “detainee” to describe suspected terrorists who are being held indefinitely at the United States naval base at Guantánamo Bay, calling it “**accepting political spin** at face value.” Mr. Krzyzynski wrote: **To “detain” connotes brevity**, as in, say, a traveler detained at a border or an airport for further Immigration, Customs, T.S.A. or similar questioning-searching-processing. I’d go as far as to call it **language abuse** in the context of Gitmo, especially for anyone who has a healthy respect for plain, clear English or who remembers “detention” in high school. “**Prisoner**” and its variants **would be accurate**, of course, given the unusually long time behind bars or in cages (historically unprecedented, actually, for any P.O.W.’s, if one accepts that we’re in a “war,” albeit undeclared by Congress). Seven years ago, the Pulitzer Prize-winning cartoonist Steve Breen of The San Diego Union-Tribune came up with what’s probably the most precise term of all: “infinitee.” I asked Mr. Shane, a national security reporter in the Washington bureau, and Philip B. Corbett, the associate managing editor for standards, to respond to some of these issues. Mr. Shane addressed Mr. Gort’s question on “targeted killings,” noting that editors and reporters have discussed it repeatedly. He wrote: “Assassination” is banned by executive order, but for decades that has been interpreted by successive administrations as prohibiting the killing of political figures, not suspected terrorists. Certainly most of those killed are not political figures, though arguably some might be. Were we to use “assassination” routinely about drone shots, it would suggest that the administration is deliberately violating the executive order, which is not the case. This administration, like others, just doesn’t think the executive order applies. (The same issue arose when Ronald Reagan bombed Libya, and Bill Clinton fired cruise missiles at Sudan and Afghanistan.) “Murder,” of course, is a specific crime described in United States law with a bunch of elements, including illegality, so it would certainly not be straight news reporting to say President Obama was “murdering” people. This leaves “targeted killing,” which I think is far from a euphemism. It denotes exactly what’s happening: American drone operators aim at people on the ground and fire missiles at them. I think it’s a pretty good term for what’s happening, if a bit clinical. Mr. Shane added that he had only one serious qualm about the term. That, he said, was expressed by an administration official: “It’s not the targeted killings I object to — it’s the untargeted killings.” The official “was talking about so-called ‘signature strikes’ that target suspected militants based on their appearance, location, weapons and so on, not their identities, which are unknown; and also about mistaken strikes that kill civilians.” On the matter of “detainee,” Mr. Corbett called it “a legitimate concern” and agreed that the term might not be ideal. He said that it, not prisoner, was used because those being held “are in such an unusual situation – they are not serving a prison term, they are in an unusual status of limbo.” The debate over the word “torture,” he said, has similar implications to the one Mr. Shane described with assassination. “The word torture, aside from its common sense meaning, has specific legal meaning and ramifications,” Mr. Corbett said. “Part of the debate is on that very point.” The Times wants to “avoid making a legal judgment in the middle of a debate,” he added. Mr. Corbett also said that readers might have the wrong idea about The Times’s practices on word use. “People have this image that we set out a list of terms that must be used and those that must not be used — that there is a committee or cabal that sends out an edict,” he said. That’s far from true, he said. “In a vast majority of cases, we rely on our reporters to use their judgment,” he said. “Only rarely do we make a firm style rule.” Although individual words and phrases may not amount to very much in the great flow produced each day, **language matters**. When news organizations accept the government’s way of speaking, they seem to **accept the government’s way of thinking**. In The Times, these decisions carry even more weight. Word choices like these **deserve thoughtful consideration** – and, at times, some institutional **soul-searching**.

### CP 2

#### Rahim and I advocate the deconstruction of indefinite detention as a manifestation of black criminality, with the exception that we do not advocate deconstructing preventive detention of individuals suspected of supporting, training with, awaiting instructions to undertake attacks from, or undertaking attacks on behalf of terrorist organizations plotting attacks found likely to cause mass casualties, defined as casualties numbering in the thousands or more.

#### The counterplan resolves the harms described in the 1AC---preventive detention of suspected terrorists is distinct from the imprisonment of black women as a means of social control. The counterplan would end the use of prisons as systems of gender domination and torture of women because it ends all uses of prisons for punishment.

#### Preventative detention is justified—it prevents the deaths of thousands

Don Scheid 10, Professor of Philosophy at Winona State University, Minnesota, 4/1/10, “Indefinite Detention of Mega-terrorists in the War on Terror,” Criminal Justice Ethics, http://www.tandfonline.com/doi/pdf/10.1080/07311291003654146

Mistakenly punishing an innocent person is obviously a very great harm to that individual (and, indirectly, to family, friends, and associates).33 It is often thought to clearly outweigh the harm of a guilty person getting off without punishment. The thought is that while the innocent person suffers the harm of punishment, no one suffers any harm when the system fails to punish a guilty person, although retributive justice is not served. Surely, it is argued, it is far worse for John to be falsely convicted and hanged for a murder he did not commit, than for Bill to be mistakenly set free when he really did commit a murder.¶ But should the moral priorities always be this way? Undoubtedly, there can be situations in which the priorities should be the other way around. Michael Corrado offers the following hypothetical example. Imagine a group of 10 people, six of whom will commit murder if allowed to go free; but we do not know which of the 10 they are. If we let them all go free, six innocent people will be murdered. The risk of false positives cannot be our only concern. Surely, the prospect that four innocent persons will lose their freedom must be weighed against the prospect that six other innocent persons will lose their lives.34¶ In the case of mega-terrorism, all the calculations about preventive detention shift radically. This is simply because the dangers threatened are so much greater. One mega-terrorist might easily represent the deaths of hundreds or even thousands of people. In these circumstances, mistakenly releasing a mega-terrorist would be far more serious than mistakenly detaining an innocent non-terrorist. Under the threat of mega-terrorism, it would seem that the maxim should go the other way: better that 10 innocents be detained than that one mega-terrorist go free.¶ If deterrence (both general and specific) and incapacitation are accepted as legitimate justifying elements in a theory of punishment, as I do, then the system of domestic punishment may be seen as one mechanism for society’s defense\*defense against ‘‘the enemy within.’’ 35 It is important to have some such defense mechanism; and we accept its necessity even with all its imperfections. When it comes to defense of the country in war, many other costly imperfections and mistakes are also accepted as unfortunate necessities. Besides the obvious death and wounding of soldiers, there are the casualties from‘‘friendly fire’’ and the ‘‘collateral damage’’ of innocent people being killed. Similarly, if even an imperfect and inaccurate practice of preventive detention of mega-terrorists increases the general welfare more than any alternative, then we ought to do it. In other words, if detaining mega-terrorists, including the cost of false positives, increases the general welfare more than any alternative, then that is what should be done.¶ The ‘‘use’’ of innocent individuals (intentional killing of noncombatants) is prohibited in the Just War tradition, just as the ‘‘use’’ of innocent persons in punishment (that is, intentionally punishing an innocent person when it is useful) is prohibited in the domestic context. So a similar kind of constraint on simple consequentialist calculations applies in both contexts.36 However, the risks to the state are far, far greater in the case of war than in the case of domestic crime. Where the risks are greater, we are willing to accept higher rates of mistake. A similar calculation should apply in the case of mega-terrorism. It would be one thing to mistakenly release from custody a person who will murder someone; it is quite another thing to mistakenly release a mega-terrorist who will detonate a bomb that will kill hundreds or thousands of people. However many false positives we think acceptable in the first case, the acceptable number of false positives must be much greater in the second case.37¶ The conclusion, I think, must be that problems about predicting a person’s future behavior and the inevitability of keeping some false positives in detention cannot be a conclusive objection to the preventive detention of mega-terrorists. To the contrary, if preventive detention is ever justified, the preventive detention of mega-terrorists surely is.

**High risk of nuke terror---escalates and turns the case because of civil-liberty crackdowns**

Vladimir Z. **Dvorkin ‘12** Major General (retired), doctor of technical sciences, professor, and senior fellow at the Center for International Security of the Institute of World Economy and International Relations of the Russian Academy of Sciences. The Center participates in the working group of the U.S.-Russia Initiative to Prevent Nuclear Terrorism, 9/21/12, "What Can Destroy Strategic Stability: Nuclear Terrorism is a Real Threat," belfercenter.ksg.harvard.edu/publication/22333/what\_can\_destroy\_strategic\_stability.html

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

### DA

#### Obama is prioritizing capture over drone strikes now

David Corn 13, Washington Bureau Chief at Mother Jones, 5/23/13, “Obama's Counterterrorism Speech: A Pivot Point on Drones and More?,” http://www.motherjones.com/mojo/2013/05/obama-speech-drones-civil-liberties

So Obama's speech Thursday on counterterrorism policies—which follows his administration's acknowledgment yesterday that it had killed four Americans (including Anwar al-Awlaki, an Al Qaeda leader in Yemen)—is a big deal, for with this address, Obama is self-restricting his use of drones and shifting control of them from the CIA to the military. And the president has approved making public the rules governing drone strikes.¶ The New York Times received the customary pre-speech leak and reported:¶ A new classified policy guidance signed by Mr. Obama will sharply curtail the instances when unmanned aircraft can be used to attack in places that are not overt war zones, countries like Pakistan, Yemen and Somalia. The rules will impose the same standard for strikes on foreign enemies now used only for American citizens deemed to be terrorists.¶ Lethal force will be used only against targets who pose "a continuing, imminent threat to Americans" and cannot feasibly be captured, Attorney General Eric H. Holder Jr. said in a letter to Congress, suggesting that threats to a partner like Afghanistan or Yemen alone would not be enough to justify being targeted.¶ These moves may not satisfy civil-liberties-minded critics on sthe right and the left. Obama is not declaring an end to indefinite detention or announcing the closing of Gitmo—though he is echoing his State of the Union vow to revive efforts to shut down that prison. Still, these moves would be unimaginable in the Bush years. Bush and Cheney essentially believed the commander in chief had unchallenged power during wartime, and the United States, as they saw it, remained at war against terrorism. Yet here is Obama subjecting the drone program to a more restrictive set of rules—and doing so publicly. This is very un-Cheney-like. (How soon before the ex-veep arises from his undisclosed location to accuse Obama of placing the nation at risk yet again?)¶ Despite Obama's embrace of certain Bush-Cheney practices and his robust use of drones, the president has tried since taking office to shift US foreign policy from a fixation on terrorism. During his first days in office, he shied away from using the "war on terrorism" phrase. And his national security advisers have long talked of Obama's desire to reorient US foreign policy toward challenges in the Pacific region. By handing responsibility for drone strikes to the military, Obama is helping CIA chief John Brennan, who would like to see his agency move out of the paramilitary business and devote more resources to its traditional tasks of intelligence gathering and analysis.¶ With this speech, Obama is not renouncing his administration's claim that it possesses the authority to kill an American overseas without full due process. The target, as Holder noted in that letter to Congress, must be a senior operational leader of Al Qaeda or an associated group who poses an "imminent threat of violent attack against the United States" and who cannot be captured, and Holder stated that foreign suspects now can only be targeted if they pose "a continuing, imminent threat to Americans." (Certainly, there will be debates over the meaning of "imminent," especially given that the Obama administration has previously used an elastic definition of imminence.) And Obama is not declaring an end to the dicey practice of indefinite detention or a conclusion to the fight against terrorism. **But the speech may well mark a** pivot point. Not shockingly, **Obama is attempting to find middle ground**, where there is more oversight and more restraint regarding activities that pose serious civil liberties and policy challenges. The McCainiacs of the world are likely to howl about any effort to place the effort to counter terrorism into a more balanced perspective. The civil libertarians will scoff at half measures. But Obama, at the least, is showing that he does ponder these difficult issues in a deliberative manner and is still attempting to steer the nation into a post-9/11 period. That journey, though, may be a long one.

#### Restricting detention policies means we kill and extradite prisoners

Jack Goldsmith 09, a professor at Harvard Law School and a member of the Hoover Institution Task Force on National Security and Law, assistant attorney general in the Bush administration, 5/31/09, “The Shell Game on Detainees and Interrogation,” <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/29/AR2009052902989.html>

The cat-and-mouse game does not end there. As detentions at Bagram and traditional renditions have come under increasing legal and political scrutiny, the Bush and Obama administrations have relied more on other tactics. They have secured foreign intelligence services to do all the work -- capture, incarceration and interrogation -- for all but the highest-level detainees. And they have increasingly employed targeted killings, a tactic that eliminates the need to interrogate or incarcerate terrorists but at the cost of killing or maiming suspected terrorists and innocent civilians alike without notice or due process.¶ There are at least two problems with this general approach to incapacitating terrorists. First, it is not ideal for security. Sometimes it would be more useful for the United States to capture and interrogate a terrorist (if possible) than to kill him with a Predator drone. Often the United States could get better information if it, rather than another country, detained and interrogated a terrorist suspect. Detentions at Guantanamo are more secure than detentions in Bagram or in third countries.¶ The second problem is that terrorist suspects often end up in less favorable places. Detainees in Bagram have fewer rights than prisoners at Guantanamo, and many in Middle East and South Asian prisons have fewer yet. Likewise, most detainees would rather be in one of these detention facilities than be killed by a Predator drone. We congratulate ourselves when we raise legal standards for detainees, but in many respects all we are really doing is driving the terrorist incapacitation problem out of sight, to a place where terrorist suspects are treated worse.¶ It is tempting to say that we should end this pattern and raise standards everywhere. Perhaps we should extend habeas corpus globally, eliminate targeted killing and cease cooperating with intelligence services from countries that have poor human rights records. This sentiment, however, is unrealistic. The imperative to stop the terrorists is not going away. The government will find and exploit legal loopholes to ensure it can keep up our defenses.¶ This approach to detention policy reflects a sharp disjunction between the public's view of the terrorist threat and the government's. After nearly eight years without a follow-up attack, the public (or at least an influential sliver) is growing doubtful about the threat of terrorism and skeptical about using the lower-than-normal standards of wartime justice.¶ The government, however, sees the terrorist threat every day and is under enormous pressure to keep the country safe. When one of its approaches to terrorist incapacitation becomes too costly legally or politically, it shifts to others that raise fewer legal and political problems. This doesn't increase our safety or help the terrorists. But it does make us feel better about ourselves.

### Case

#### Deconstructing indefinite detention does not get rid of the prison system

#### “Indefinite detention” means detained without charges—not criminal law

Cheyette, JD, MPH, and Allen, MD, Co-Director of the Center for Prisoner Health and Human Rights at Brown University, 2011

(Cara and Scott, “Punishment Before Justice: Indefinite Detention in the US,” http://www.judiciary.senate.gov/resources/transcripts/upload/022912RecordSubmission-Franken.pdf)

**Individuals who are indefinitely detained are**, **by definition**, **individuals against whom no charges have been brought and therefore against whom no conviction has been obtained**. Unlike individuals convicted of crimes, whose sentences are a form of lawful punishment so long as it is not cruel or unusual, detainees may not, consistent with due process, be punished at all. The US government’s obligation to ensure that detainees do not suffer severe mental and physical harm is accordingly greater than the government’s obligation to protect prison inmates from such harms. This report demonstrates, however, that the harms endured by individuals held indefinitely are unconstitutionally punitive, thus violating detainees’ rights to due process. Moreover, the serious harm that already traumatized populations face constitutes cruel, inhuman, or degrading treatment, in violation of domestic and international law.

#### “Indefinite detention” by definition does not result in trial

Greenwald, JD NYU and national security writer for The Guardian and formerly Salon, 12/16/2011

(Glenn, “Three myths about the detention bill,” http://www.salon.com/2011/12/16/three\_myths\_about\_the\_detention\_bill/)

Section 1021 of the NDAA governs, as its title says, “Authority of the Armed Forces to Detain Covered Persons Pursuant to the AUMF.” The first provision — section (a) — explicitly “affirms that the **authority of the President**” under the AUMF ”includes the authority for the Armed Forces of the United States to detain covered persons.” The next section, (b), defines “covered persons” — i.e., those who can be detained by the U.S. military — as “a person who was a part of or substantially supported al-Qaeda, the Taliban, or associated forces that are engaged in hostilities against the United States or its coalition partners.” With regard to those “covered individuals,” this is the power vested in the President by the next section, (c):

It simply cannot be any clearer within the confines of the English language that this bill codifies the power of indefinite detention. **It expressly empowers the President** — with regard to anyone accused of the acts in section (b) – **to detain them** “**without trial until the end of the hostilities**.” **That is the very** definition of “indefinite detention,” and the statute could not be clearer that it vests this power. Anyone claiming this bill does not codify indefinite detention should be forced to explain how they can claim that in light of this crystal clear provision.

#### The criminal process does include a trial

Cantrell, attorney at law, 2013

(Mark, http://markcantrellattorneyatlaw.com/criminalprocess.html)

Criminal Process

What is the Criminal Process?

The various steps in the Criminal Process are as follows:

1. The Arrest: The police arrest someone based on probable cause that they have committed a criminal offense. However, the police do not file the charges. They simply provide reports and evidence to the prosecuting attorney, who then decides whether or not charges should be filed, and if so, what charges.

2. Filing of the Complaint: The police arrest someone based on probable cause that they have committed a criminal offense. However, the police do not file the charges. They simply provide reports and evidence to the prosecuting attorney, who then decides whether or not charges should be filed, and if so, what charges. The prosecuting attorney files the document with the court, which alleges the charges against you.

3. Arraignment/First Appearance: At the arraignment, you are formally advised of the charges and your constitutional rights. Bail is often set during the arraignment. Bail is used by the court almost like an "insurance policy" that you will appear on future court dates.

The amount of bail is determined by the judge. The judge will look to two factors in deciding bail: your risk of flight and whether you pose a danger to the community. Bail amounts can range from being released on your own recognizance, all the way up to millions of dollars. In some cases no bail is allowed.

4. Preliminary Hearing: Preliminary Hearings are held in all felony offenses to review probable cause. This is necessary for the judge to determine whether there is sufficient evidence to support the charges against you. Once a Judge determines that there is probable cause, he sends the case to the Superior Court for trial. During the Preliminary Hearing, the district attorney or the judge can add additional charges and/or readjust the bail.

5. Arraignment in the Superior Court: If the judge has determined that there is probable cause to support the charges, the prosecutor will file a charging document called an Information in the Superior Court. The Information alleges the charges which you are facing at trial. At this time, you are formally advised of the charges and your constitutional rights. Again, you enter a plea of not guilty.

6. Pre-trial Conference: At the pre-trial conference, the defense attorney discusses the case with the prosecuting attorney and often may include the judge in this process. This is a good opportunity to speak with the prosecution in order to obtain the best possible deal, or plea-bargain. It also allows the defense attorney to provide information which may prove your innocence.

7. Trial: During the jury trial you are entitled to have a jury of twelve impartial jurors. Both the defense attorney and the prosecuting attorney have an opportunity to make opening statements, introduce witnesses and evidence in favor of their case, cross-examine witnesses and offer closing arguments. During the deliberation phase of the case, the jury decides whether the prosecution has met the burden of proving guilt beyond a reasonable doubt. If the jury finds you not guilty, you are free to go and not subject to further prosecution based on the same offenses.

8. Sentencing: If you are found guilty, the sentencing hearing is where the judge determines and imposes the appropriate punishment. You may be sentenced to probation instead of a term in state prison. Different crimes carry different possible penalties. You are entitled to a sentencing hearing to propose why you believe the judge should give you the lowest possible penalty.

9. Collateral Consequences: In addition to any sentence imposed by the court, conviction can have a number of additional consequences. In felony cases, these consequences can include, but are not limited to: loss of the right to vote, loss of the right to possess a firearm, loss of the right to associate with other known criminals, registration as a sexual offender, registration as a narcotics offender, or increased penalties for future convictions.

10. Appeals & Writs: If convicted, you may file an appeal to an appellate level court with the argument that the trial court made legal errors. If the defense can prove that the trial court made legal errors, or you were denied due process of law or a fair trial, it may result in the reversal of your conviction.

11. Parole: Parole is a conditional release from prison which entitles you to serve the remainder of your term outside of prison. However, you are still under the supervision of the department of corrections.

12. Expungement: Expungement is a process where, in some cases, your conviction may be removed from your record.

#### Squo’s improving---prison numbers declining

Erica Goode 7/25, New York Times, "U.S. Prison Populations Decline, Reflecting New Approach to Crime", 2013, www.nytimes.com/2013/07/26/us/us-prison-populations-decline-reflecting-new-approach-to-crime.html?ref=global-home&\_r=0

The prison population in the United States dropped in 2012 for the third consecutive year, according to federal statistics released on Thursday, in what criminal justice experts said was the biggest decline in the nation’s recent history, signaling a shift away from an almost four-decade policy of mass imprisonment. ¶ The number of inmates in state and federal prisons decreased by 1.7 percent, to an estimated 1,571,013 in 2012 from 1,598,783 in 2011, according to figures released by the Bureau of Justice Statistics, an arm of the Justice Department. Although the percentage decline appeared small, the fact that it followed decreases in 2011 and 2010 offers persuasive evidence of what some experts say is a “sea change” in America’s approach to criminal punishment.¶ “This is the beginning of the end of mass incarceration,” said Natasha Frost, associate dean of Northeastern University’s school of criminology and criminal justice.¶ About half the 2012 decline — 15,035 prisoners — occurred in California, which has decreased its prison population in response to a Supreme Court order to relieve prison overcrowding. But eight other states, including New York, Florida, Virginia and North Carolina, showed substantial decreases, of more than 1,000 inmates, and more than half the states reported some drop in the number of prisoners. (Figures for three states were estimated because they had not submitted data in time for the report.) The population of federal prisons increased slightly, but at a slower rate than in previous years, the report found.¶ Imprisonment rates in the United States have been on an upward march since the early 1970s. From 1978, when there were 307,276 inmates in state and federal prisons, the population increased annually, reaching a peak of 1,615,487 inmates in 2009.¶ But in recent years, tightened state budgets, plummeting crime rates, changes in sentencing laws and shifts in public opinion have combined to reverse the trend. Experts on prison policy said that the continuing decline appears to be more than a random fluctuation.¶ “A year or even two years is a blip and we shouldn’t jump to conclusions, but three years starts to look like a trend,” said Marc Mauer, executive director of the Sentencing Project, a nonprofit research group based in Washington. But he said that the rate of inmates incarcerated in the United States continued to be “dramatically higher” than in other countries and that the changes so far were “relatively modest compared to the scale of the problem.”¶ Most observers agree that the recession has played a role in shrinking prison populations. In 2011 and 2012, at least 17 states closed or were considering closing prisons partly for budgetary reasons, representing a reduction of 28,525 beds, according to a report by the Sentencing Project published last year.¶ But Adam Gelb, director of the Pew Charitable Trusts’ public safety performance project, said that while fiscal concerns might have led to the turnaround in some states, the need to cut budgets had not been the deciding factor.¶ “They’re not simply pinching pennies,” Mr. Gelb said. “Policy makers are not holding their noses and saying we have to scale back prisons to save money. The states that are showing drops are states that are thinking about how they can apply research-based alternatives that work better and cost less.”¶ Changes in state and federal sentencing laws for lower-level offenses like those involving drugs have played a central role in the shift, he and others said, with many states setting up diversion programs for offenders as an alternative to prison. And some states have softened their policies on parole, no longer automatically sending people back to prison for parole violations.¶ But changing public attitudes are also a major driver behind the declining prison numbers. Dropping crime rates over the last 20 years have reduced public fears and diminished the interest of politicians in running tough-on-crime campaigns. And public polls consistently show that Americans are now more interested in spending money on education and health care than on building more prisons.¶ “People don’t care so much about crime, and it’s less of a political focus,” said Professor Frost, who is a co-author of a forthcoming book, “The Punishment Imperative.”¶ The result has been an unusual bipartisan effort to reduce the nation’s reliance on prisons, with groups like Right on Crime, devoted to what it calls the “conservative case for reform,” pushing for lower-cost and less punitive solutions than incarceration for nonviolent offenders.¶ Marc Levin, senior policy adviser for Right on Crime, described the change in conservatives’ position on parole violators: It used to be “Trail ’em, nail ’em and jail ’em,” he said, “but there’s been a move to say, ‘Yes, there’s a surveillance function, but we also want them to succeed.’ ”¶ Some of the most substantial prison reductions have taken place in conservative states like Texas, which reduced the number of inmates in its prisons by more than 5,000 in 2012. In 2007, when the state faced a lack of 17,000 beds for inmates, the State Legislature decided to change its approach to parole violations and provide drug treatment for nonviolent offenders instead of building more prisons.¶ In Arkansas, which reduced its prison population by just over 1,400 inmates in 2012, legislators in 2011 also passed a package of laws softening sentencing guidelines for low-level offenders and steering them to diversion programs.¶ “It’s a great example of a state that made some deliberate policy choices to say we can actually reduce recidivism and cut our prison group at the same time,” Mr. Gelb said.¶ Joan Petersilia, a law professor at Stanford and a co-director of the Stanford Criminal Justice Center, said in an interview last year that she thought Americans had “gotten the message that locking up a lot of people doesn’t necessarily bring public safety.” California’s example, she said, has also spurred other states to consider downsizing for fear of facing similar litigation.¶ But Professor Petersilia added that though the trend may have begun out of a need for belt-tightening, it had grown into a national effort to rethink who should go to prison and for how long.¶ “I don’t think in modern history we’ve seen anything like this,” she said.

#### Abolition of prisons goes too far---serial killers should not be released

Chip Johnson 12, SF Gate Columnist, Occupy 4 Prisoners misses point of punishment, www.sfgate.com/bayarea/johnson/article/Occupy-4-Prisoners-misses-point-of-punishment-3345063.php

Now there is another school of thought on incarceration that was best summed up in a stand-up routine by the late Richard Pryor.¶ The comedian spent six weeks on location at Arizona State Penitentiary while making the 1980 film "Stir Crazy" and described getting to know some of the inmates.¶ "I talked to 'em and - thank God we got penitentiaries," Pryor quipped.¶ I'm with Richard on this one.¶ Now I know it's all the rage among the radical chic to turn the plight of a Death Row inmate into a popular cause, especially if he's written a children's book. Writing a children's book apparently transforms convicted killers into misunderstood, mistreated souls who've found redemption waiting for their sentence to be carried out. Mumia Abu Jamal, convicted of killing a Philadelphia police officer, and Williams are among the most well-known converts.¶ Becnel, it should be noted, said she does not support abolishing the entire prison system.¶ "There's no argument being made here that everybody should walk free without support, without some form of needed treatment or without a re-entry plan," she said.¶ What Occupy 4 Prisoners fails to acknowledge is that incarceration - whether it's the incarceration of those determined criminally insane by the courts or others who've repeatedly committed violent acts against others - is a valid form of punishment in any society. There are some inmates who by dint of their actions have forfeited their freedom, and they should never be allowed to walk free among law-abiding citizens.¶ There is no acceptable re-entry plan for a serial murderer or rapist, for men such as Charles Ng, who raped, tortured and killed up to 25 people. There isn't a community in this state that would welcome Richard Ramirez, Scott Peterson or Cary Stayner with anything but vitriol.¶ And if you thought finding new communities where convicted child molesters or fallen Catholic priests could live was tough, wait till you try selling this idea.

# 2NC

### AT We Meet

#### War power is the Presidential authority to conduct war as commander-in-chief

Black’s Law Dictionary 99(7th Edition, p. 1578-9)

"War Power" is defined as "[the constitutional authority of Congress to declare war and maintain armed forces (U.S. Const. art. I, § 8, cls. 11-14), and of the President to conduct war as commander-in-chief (U.S. Const. art. II, § 2, cl. 1)."

### T-Version of the Aff

Reform indefinite detention

Maira 9

Sunaina, Professor of Asian American Studies at the University of California, Davis, "Good" and "Bad" Muslim Citizens: Feminists, Terrorists, and U.S. Orientalisms”, Feminist Studies35: no. 3, Fall, http://www.uccnrs.ucsb.edu/sites/www.uccnrs.ucsb.edu/files/publications/Maira.FeministStudies.2009.pdf

The Lodi case was also based on the preemptive detention of individu-

als for political expression and alleged intentions of possible attacks, rather

than actual terrorist activity. These policies **parallel Bush’s doctrine** of pre -

emptive war overseas. **Preemptive detention** and deportation **policies**

under the guise of “homeland” security are used domestically to repress

and regulate immigrants, workers, and dissidents, justifying what is essen-

tially the racial management of populations. The **corollary** of this strategy

of “preemptive denunciation” is that Muslim and Arab Americans have

become increasingly reluctant to express dissenting political views, even

with others who are from the same communities, because the informants

often are insiders themselves, a twist on the logic of the “enemy within.”

### AT Internal Exclusion

#### Meta-consensus is key to actualize pluralism---only agreeing on the basics beforehand can create productive democratic exchanges

John Dryzek 6, Professor of Social and Political Theory, The Australian National University, Reconciling Pluralism and Consensus as Political Ideals, American Journal of Political Science,Vol. 50, No. 3, July 2006, Pp. 634–649

Epistemic meta-consensus for its part could be desirable on the grounds of deliberative economy. That is, to the extent a set of beliefs is accepted as credible and relevant, there is an understanding of what the main issues are, and so no need to debate fundamentals each time a claim is made. A parallel with paradigms in scientific communities can be drawn here. A paradigm by definition features strong epistemic meta-consensus, releasing practitioners from the sheer amount of time and effort it takes to get beyond debating basic assumptions and first principles. Of course, nothing as strong as a paradigm will normally be available (or necessarily desirable) in a political context. Epistemic meta-consensus permits the pluralism at the simple level required for complex issues to be scrutinized from a number of directions in the search for creative solutions that respond to different facets of issues (see our earlier discussion of Popper’s argument for the rationality of simple pluralism in policy making).¶ In effect, epistemic meta-consensus creates a “problem-solving public” in the sense of pragmatist philosophers such as John Dewey (1927). To return to our toxic pollution example, government officials wielding epidemiological studies and local residents reporting particular experiences would not be stuck in ridiculing the methodological basis of each others’ claims, but instead devote energy to joint problem solving. This effort might, for example, involve deploying some version of the “precautionary principle” in environmental policy, which is designed to inform policy making in situations of substantial uncertainty about the content and magnitude of risks. Such an outcome would not be in any sense a mere compromise between the epistemic positions of the two sides that would involve an assessment of risks somewhere between that of the epidemiologists and local residents, but rather a wholly new way of looking at decision in the context of risk.

#### Establishing constraints on the topics for discussion in debate does not cause internal exclusion and breaking down those constraints doesn’t solve it because the absence of clash and the refusal of the burden of rejoinder only flips external exclusion---the way to resolve internal exclusion is to broaden the scope of what counts as a persuasive argument within a given topic---for example, our model of debate would welcome the use of narrative and personal experience on behalf of a topical argument---this middle ground most effectively resolves their exclusion arguments

Gert Biesta et al 9, professor of Education and Director of Research at the School of Education, University of Stirling, Susan Verducci , Assistant Professor at the Humanities Department at San José State University, and Michael S. Katz, professor of philosophy and education at San Jose State, Education, Democracy and the Moral Life, 2009, p. 105-107

This example not only shows why the issue of inclusion is so prominent in the deliberative model. It also explains why the deliberative turn has generated a whole new set of issues around inclusion. The reason for this is that deliberation is not simply a form of political decision-making but first and foremost a form of political communication. The inclusion question in deliberative democracy is therefore not so much a question about who should be included - although this question should be asked always as well. It is first and foremost a question about who is able to participate effectively in deliberation. As Dryzek aptly summarises, the suspicion about deliberative democracy is "that its focus on a particular kind of reasonable political interaction is not in fact neutral, but systematically excludes a variety of voices from effective participation in democratic politics" (Dryzek, 2000, p.58). In this regard Young makes a helpful distinction between two forms of exclusion: external exclusion, which is about "how people arc [actually] kept outside the process of discussion and decision-making", and internal exclusion where people are formally included in decision-making processes but where they may find, for example, "that their claims are not taken seriously and may believe that they are not treated with equal respect" (Young, 2000, p.55). Internal exclusion, in other words, refers to those situations in which people "lack effective opportunity to influence the thinking of others even when they have access to fora and procedures of decision-making" (ibid.) which can particularly be the outcome of the emphasis of some proponents of deliberative democracy on "dispassionate, unsituatcd, neutral reason" (ibid. p.63).

To counteract the internal exclusion that is the product of a too narrow focus on argument, Young has suggested several other modes of political communication which should be added to the deliberative process not only to remedy "exclusionary tendencies in deliberative practices" but also to promote "respect and trust" and to make possible "understanding across structural and cultural difference" (ibid. p.57). The first of these is greeting or public acknowledgement. This is about "communicative political gestures through which those who have conflicts . .. recognize others as included in the discussion, especially those with whom they differ in opinion, interest, or social location" (ibid., p.61; emphasis in original). Young emphasises that greeting should be thought of as a starting-point for political interaction. It "precedes the giving and evaluating of reasons" (ibid., p.79) and does so through the recognition of the other parties in the deliberation. The second mode of political communication is rhetoric and more specifically the affirmative use of rhetoric (ibid., p.63). Although one could say that rhetoric only concerns the form of political communication and not its content, the point Young makes is that inclusive political communication should pay attention to and be inclusive about the different forms of expression and should not try to purify rational argument from rhetoric. Rhetoric is not only important because it can help to get particular issues on the agenda for deliberation. Rhetoric can also help to articulate claims and arguments "in ways appropriate to a particular public in a particular situation' (ibid., p.67; emphasis in original). Rhetoric always accompanies an argument by situating it "for a particular audience and giving it embodied style and tone" (ibid., p.79). Young's third mode of political communication is narrative or storytelling. The main function of narrative in democratic communication lies in its potential "to foster understanding among members of a polity with very different experience or assumptions about what is important" (ibid., p.71). Young emphasises the role of narrative in the teaching and learning dimension of political communication. "Inclusive democratic communication", so she argues, "assumes that all participants have something to teach the public about the society in which they dwell together" and also assumes "that all participants are ignorant of some aspects of the social or natural world, and that everyone comes to a political conflict with some biases, prejudices, blind spots, or sterco-types" (ibid., p.77).

It is important to emphasise that greeting, rhetoric and narrative are not meant to replace argumentation. Young stresses again and again that deliberative democracy entails "that participants require reasons of one another and critically evaluate them" (ibid., p.79). Other proponents of the deliberative model take a much more narrow approach and see deliberation exclusively as a form of rational argumentation (e.g. Bcnhabib, 1996) where the only legitimate force should be the "forceless force of the better argument" (Habermas). Similarly, Dryzck, after a discussion of Young's ideas,1 concludes that argument always has to be "central to deliberative democracy" (Dryzek, 2000, p.7l). Although he acknowledges that other modes of communication can be present and that there are good reasons to welcome them, their status is different "because they do not have to be present" (ibid., emphasis added). For Dryzek, at the end of the day, all modes of political communication must live up to the standards of rationality. This does not mean that they must be subordinated to rational argument “but their deployment only makes sense in a context where argument about what is to be done remains central” (ibid., p.168).

# 1NR

### Solvency

#### There would still need to be convincing evidence for detention

Don Scheid 10, Professor of Philosophy at Winona State University, Minnesota, 4/1/10, “Indefinite Detention of Mega-terrorists in the War on Terror,” Criminal Justice Ethics, http://www.tandfonline.com/doi/pdf/10.1080/07311291003654146

Using the Hamdi decision in a somewhat different context, it seems reasonable to require a standard of proof less than ‘‘beyond a reasonable doubt’’ for the continued detention of a mega-terrorist suspect. Before trial, the standard for detention without bail is normally whether ‘‘clear and convincing evidence’’ shows the defendant to be a flight risk or a threat to the community. It is also the usual standard for involuntary commitment of the mentally ill. In order to arrest and briefly hold a person, it is normally sufficient that it is more likely than not that the individual committed a crime (that is, ‘‘probable cause’’). Thus, in the case of megaterrorism, analogous standards may well be appropriate; ‘‘clear and convincing evidence’’ or a ‘‘preponderance of the evidence’’ tending to show that the suspect is a mega-terrorist should suffice.¶ Although a mere hunch will not do, initial capture of a mega-terrorism suspect could be based on ‘‘reasonable suspicion’’ (a standard substantially lower than ‘‘probable cause’’). After an initial period of pre-hearing detention that is long enough for both government and defense to develop evidence (3 to 6 months?), continued detention after court proceedings might be maintained on the basis of ‘‘preponderance of the evidence.’’ A further suggestion is that beyond some period of time (12 to 18 months?), during which evidence is thoroughly developed and assessments of the individual are made, continued detention would require ‘‘clear and convincing evidence.’’ 47

#### Because the paradigm for preventive detention is not punishment, the abuses that their 1AC evidence describes do not apply to it

Don Scheid 10, Professor of Philosophy at Winona State University, Minnesota, 4/1/10, “Indefinite Detention of Mega-terrorists in the War on Terror,” Criminal Justice Ethics, http://www.tandfonline.com/doi/pdf/10.1080/07311291003654146

Implications of Detention Rationale

One consequence of preventive detention that some may find surprising is that the conditions of detention may be no more burdensome than absolutely necessary. In theory, if not always in practice, a sharp distinction is made between punishment for past wrongs and detention to prevent future wrongs. The rationales for the two are very different. Criminal desert arises from past wrongdoing, whereas dangerousness is estimated future wrongdoing. For instance, the mentally ill person may be civilly committed because of the danger she presents to others, but the person is entirely innocent from the point of view of the criminal law and does not deserve punishment. The confinement may be characterized as ‘‘innocent detention.’’ Since the person is being held for society’s benefit, rather than as deserved punishment, the conditions of confinement should be no more onerous for the individual than necessary to fulfill society’s need for public safety. Thus, like the quarantine confinement of a person with a contagious disease, the person should be held in the least intrusive way possible. In some cases, this may mean full-time incarceration; but in many others, confinement may require only a ‘‘half-way house’’ or home detention with an ankle bracelet. Once the danger the person poses is contained, no greater levels of restraint can be justified for reasons of preventive detention.52¶ The rationale for preventive detention has other implications as well. First, if a person is no longer dangerous, he must be released. Accordingly, each detention must be reviewed periodically by some independent authority to determine the individual’s continued dangerousness. Second, the detainee may be entitled to treatment if that can reduce his dangerousness and, thus, the length or intrusiveness of his confinement. That is, the state may have some obligation to provide rehabilitation if that is possible.

#### Only 80 people would be detained

Gregory McNeal 08, Visiting Assistant Professor of Law, Pennsylvania State University Dickinson School of Law. The author previously served as an academic consultant to the former Chief Prosecutor, Department of Defense Office of Military Commissions, “ARTICLE: BEYOND GUANTANAMO, OBSTACLES AND OPTIONS,” August 08, 103 Nw. U. L. Rev. Colloquy 29

1. Speedy Trial Rights, Security Clearances, and Secured Facilities--Both candidates for President have supported transferring all Guantanamo detainees to the United States. If solutions to the controversy surrounding Guantanamo and military commissions were this simple, the nonprosecution paradox and intelligence protection problem detailed above would not be an issue. However, because the DoD has repeatedly identified a group of eighty whom they intend to hold in preventive detention, they have created a sui generis class of detainees who upon transfer to the United States will have a colorable claim for speedy trial rights. Such claims have immediate implications for the preparedness of the federal court system or even a national security court to handle an influx of cases. One senior Department of Justice, National Security Division official recently told me that "[w]e would lose all of those cases, not because of a lack of evidence or an inability to prove the case; we simply do not have enough security-cleared prosecutors for that many cases. I'd lose them all on speedy trial grounds." n92

### A2 Islamophobia

#### We’re advocating detention based on what people plan to do, not who they are---potential mass-casualty terrorists clearly include Christian extremists and other non-Muslim groups---proves they can’t win “impacts not real”

Mahdi Mohammad Nia 10, Department of Defense and Strategic Studies @ the University of Pune in India, June 1, 2010, “From Old to New Terrorism: The Changing Nature of International Security,” http://globality.cc.stonybrook.edu/?p=149

Osama bin Laden and the al-Qaeda terrorist network are the prime examples of the new terrorism. Nevertheless, the new terrorism is not limited to radical Islamic groups. The current trend of Western states to focus on the link between Islam and terrorism is misleading because violent religion is not supported by the text of the Quran, the holy book of Islam.[49] Non-Islamic terrorist groups such as right-wing Christian extremists also exhibit many features of the new transnational terrorism.¶ Considering catastrophic terrorist attack, Nadine Gurr and Benjamin Cole describe nuclear-biological-chemical (NBC) terrorism as the “third wave of vulnerability” experienced by the United States beginning in 1995 (the first two waves were the Soviet test of the atomic bomb in 1949, and the aggravating nuclear arms race that followed).[50] David Rapoport made a similar assessment by saying that religiously motivated terrorism is the “fourth wave” in the evolution of terrorism.[51] Interestingly, warnings about non-traditional terrorism were raised frequently before 2001.[52] For example, Ashton Carter, John Deutch, and Philip Zelikow declared in 1998 that a new threat of “catastrophic” terrorism had appeared.[53] Some analysts believe that terror has evolved from being a means to an end, to becoming the end in itself, and that many radical terrorist groups seek destruction and chaos as ends in itself.[54] R. James Woolsey, the former CIA Director, has been quoted in the National Commission on Terrorism: “Today’s terrorists don’t want a seat at the table, they want to destroy the table and everyone sitting at it.”[55]

#### Our DA distinguishes between terrorism committed in the name of Islam and Islam itself---calling opposition to terrorism Islamophobic erases that distinction

Jonathan Schanzer 13, vice president of research for the Foundation for Defense of Democracies, doctorate from Kings College London, Review of “The Islamophobia Industry” by Nathan Lean, Jan 9 2013, http://schanzer.pundicity.com/12765/the-islamophobia-industry

'The enemy of America is not our many Muslim friends," President George W. Bush declared soon after the 9/11 attacks. Mr. Bush's statement set the tone for the tumultuous decade to come, one in which the nation prosecuted a war on terrorism in two Muslim lands while taking great pains to protect the rights of Muslim Americans.¶ Yet if the author Nathan Lean is to be believed, Americans today are caught in the grip of an irrational fear of Islam and its adherents. In his short book on the subject, Mr. Lean, a journalist and editor at the website Aslan Media, identifies this condition using the vaguely medical sounding term "Islamophobia." It is by now a familiar diagnosis, and an ever widening range of symptoms—from daring to criticize theocratic tyrannies in the Middle East to drawing cartoons of the Prophet Muhammad—are attributed to it.¶ In reality, Islamophobia is simply a pejorative neologism designed to warn people away from criticizing any aspect of Islam. Those who deploy it see no difference between Islamism—political Islam and its extremist offshoots—and the religion encompassing some 1.6 billion believers world-wide. Thanks to this feat of conflation, Islamophobia transforms religious doctrines and political ideologies into something akin to race; to be an "Islamophobe" is in some circles today tantamount to being a racist.¶ American Islamophobia, Mr. Lean claims, is fomented by a "small cabal of xenophobes." "The Islamophobia Industry: How the Right Manufactures Fear of Muslims" is less a book than a series of vignettes about some of these antagonists, who are "bent on scaring the public about Islam." His Islamophobic figures and institutions range from political leaders like Mr. Bush, Sen. John McCain and New York Mayor Rudy Giuliani, who, Mr. Lean says, have "harnessed Muslims and Islam to terrorism"; to the pro-Israel community, which is alleged to be animated by a "violent faith narrative" and funded by magnates who inject "eye-popping cash flows into the accounts of various fear campaigns"; to pretty much everyone who campaigned in 2010 against the construction of the so-called Ground Zero Mosque near the site of the 9/11 attacks in lower Manhattan.¶ Mr. Lean tars with the same brush the likes of the scholar Daniel Pipes and the Muslim activist, physician and U.S. Navy veteran Zuhdi Jasser. Mr. Pipes, the author writes, is "deeply entrenched in the business of selling fear." He portrays Mr. Jasser as a puppetlike figure, "a 'good Muslim,' one that openly and forcefully denounced various tenets of his faith."¶ These are crude and uncharitable caricatures of these men. Mr. Pipes was one of the first Western commentators to raise the alarm about the subterranean spread of extremist attitudes in both the Middle East and among some Muslim communities in the West. Dr. Jasser, a devout Muslim, is the founder of the American Islamic Forum for Democracy, an organization that advances the notion that "the purest practice of Islam is one in which Muslims have complete freedom to accept or reject any of the tenants or laws of the faith no different than we enjoy as Americans in this Constitutional republic." Both men argue that the real contest is the serious war of ideas raging within Islam itself, between the forces of liberalism and pluralism and those of obscurantism.¶ To Mr. Lean, though, any such distinction is simply a false perception manufactured by Islamophobes. Thus the author fails to grapple with the fact that, unlike average Muslims, Islamist terror groups like al Qaeda, Hamas and Hezbollah do commit unspeakable acts of violence in the name of Islam—actions that surely help account for why many Americans (49%, according to a 2010 poll) hold an unfavorable view of Islam, even when they view favorably Muslims that they personally know.

### Public Sphere

#### Our advocacy allows for those not directly affected by oppression to engage and oppose racism as well---that’s a better form of politics than telling privileged groups they can’t do anything to help

Tim Wise No Date, Antiracist Essayist, Author and Educator, former adjunct faculty member at the Smith College School for Social Work, "F.A.Q.s", www.timwise.org/f-a-q-s/

But it makes no sense to think that if I receive privilege, I must therefore be a hypocrite for also criticizing the privileges and the system that bestows them. By that logic, members of dominant groups should never speak out on behalf of equity. They should just passively accept — or maybe even actively pursue — their advantages, and the maintenance of the system that bestows those advantages, so as to seem “consistent.” Or perhaps we should silently oppose the system from which we benefit, but do nothing openly to oppose it, for fear that doing so might draw attention to ourselves. But to do either of those things — passively accept or just silently oppose white supremacy — would seem like an abdication of all moral agency, not to mention strategic wisdom.¶ Although there may be an inherent tension between fighting white privilege and receiving it — as I do, for instance, by often being taken more seriously than people of color when they offer the same types of arguments — the alternative (to not speak out) would only further the deafening white silence on these issues, and allow other whites to believe that the only people who oppose racism and white supremacy are people of color. This belief, directly or indirectly, contributes to white ambivalence and white racism, by seeming to vest whites with a personal stake in the maintenance of the system, rather than getting them to think how we would all be better off were that system to fall. Furthermore, to remain silent so as to defer to the voices of people of color, perpetuates the imbalance whereby people of color are responsible for doing all the heavy lifting against white supremacy. How is that an example of solidarity or allyship? Certainly it cannot help the antiracist struggle to say, in effect, “No really, you do all the work, and I’ll just watch, thanks. Because, ya know, I wouldn’t want to draw attention to myself!”¶ Although whites who challenge racism need to be as accountable as possible to people of color in the way we do the work (see the Appreciation and Accountability Statement, here, for examples of how I try to do that, as well as the newly published Code of Ethics for Anti-Racist White Allies, which I helped develop, for additional information), the argument that somehow white folks shouldn’t engage in that work in any real way (or at least not publicly) makes very little sense ethically, and is absurd from a strategic perspective.