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## Advantage 1: Separation of Powers

The D.C. Circuit ruling on Al-Maqaleh v. Gates declared that habeas only applied to areas the U.S. permanently occupies

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The D.C. Circuit held that the Bagram detainees are not entitled to the writ for two reasons: the “location” and “practical difficulties” factors. In particular, the court found compelling its findings that (1) Bagram is a territory not under sufficient control of the United States, and (2) Bagram is in an active theater of war.107 These two pillars of the court’s opinion stand on flimsy ground. First, with respect to the “location” prong of the court’s decision, the D.C. Circuit suffers from what may be deemed an “essentialization” problem. In general terms, to “essentialize” is to believe that all things of a certain type must contain specific traits that all things of that type must possess.108 It is to assume, in other words, “that all examples of that particular thing share the same . . . defining characteristics.”109 In al Maqaleh, the panel decided, at bottom, that the Bagram case was more akin to Eisentrager, where the detainees were held in the twilight of World War II at a German facility not under the exclusive control of the United States and denied habeas rights, than to Boumediene, where the detainees were held at the Guantánamo military base under the plenary control of the United States far removed from a war zone and had their habeas rights recognized.110 The D.C. Circuit’s assessment of habeas jurisdiction appears to have turned on a simplistic comparison of the territorial characteristics of Bagram to those present in Eisentrager and Boumediene. That is—the court examined whether Bagram fit on the Eisentrager or Boumediene end of the spectrum. The problem with this approach is that the court assumed that, to reach the Boumediene/habeas-granting “end” of that spectrum, Bagram must contain those traits that Guantánamo possessed. Applied to the issue of “location,” it means that in the court’s estimation, the degree to which the United States must control the location must be equivalent to that exhibited at Guantánamo, otherwise one remains on the Eisentrager side of the equation.111 At Guantánamo, the D.C. Circuit noted, the United States “maintained its total control of Guantanamo Bay for over a century, even in the face of a hostile government maintaining de jure sovereignty over the property.”112 By contrast, the panel pointed out, “[i]n Bagram, while the United States has options as to duration of the lease agreement, there is no indication of any intent to occupy the base with permanence, nor is there hostility on the part of the ‘host’ country.”113 This difference proved fatal to the petitioners’ argument as to “control.” It is unclear, as a constitutional matter, why the Guantánamo traits with respect to “location”—permanent occupation of (or the intent to so occupy) territory—should serve as the benchmark for or otherwise determine whether the Executive has effective control of the petitioners who claim they have been wrongfully detained. Generally, a custodian need not have permanent or longstanding control over an entire area in order to have effective control over an individual,114 and, as the Supreme Court noted, it is the custodian whom the writ targets and operates against: The important fact to be observed in regard to the mode of procedure upon this writ is, that it is directed to, and served upon, not the person confined, but his jailer. It does not reach the former except through the latter. The officer or person who serves it does not unbar the prison doors, and set the prisoner free, but the court relieves him by compelling the oppressor to release his constraint. The whole force of the writ is spent upon the [custodian].115 We would not say that a custodian lacks control over prisoners simply because the prison was built only in the last year or two, because the prison may not last in perpetuity, or because the state does not also control the whole, surrounding area. Put differently, it would not be said that the prison must be established for decades, the prison must be there for decades to come, or that the prison must be part of a comprehensively held land mass for the custodian to have control over a prisoner. Consistent with the functional approach of Boumediene, the custodian in these circumstances possesses control—notwithstanding the nascent nature or uncertain duration of the prison facility itself—over the prisoners. The al Maqaleh court’s essentialization required that the United States permanently occupy, or demonstrate intent to permanently occupy, the Bagram land just as the United States has occupied Guantánamo on a lengthy, indefinite basis. The critical question, however, is not whether Bagram mimics Guantánamo in this respect, but rather whether the American custodian has effective control over the detainees at Bagram. The court’s focus on the nation’s permanent control over land, as opposed to the custodian’s stable control over the detainees, is a fundamental error in the D.C. Circuit’s reasoning.

Guarantees presidential and military adventurism – makes all impacts more probable. SCOTUS ruling key to solve

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In the wake of 9/11 and since the start of the War on Terror, the government – including the Obama administration – has justified its self-expanded powers with the security argument. The government, its supporters argue, requires such powers in order to adequately protect the American people. In other words, the President did not seek out expansion of powers because he wanted to; no, it was for the safety and wellbeing of the American people. To say the least, it is a difficult argument – that, we, the government, require greater discretion for your, the citizen’s, own good – to outright reject. After all, who doesn’t wish to feel safe, to feel protected, and well looked after? Are we to say, “No thanks, I’ll keep my freedom and take my chances with the terrorists.” Sure, some will; but the majority will not. Exploding bombs, collapsing skyscrapers, and the deaths of those we know are immediately cognizable and evoke strong emotional responses. Liberties, separation-of-powers concerns, on the other hand, are far less tangible and far more abstract. Yes, everybody can rally behind freedom as an idea; but when faced with the choice between continual fear and more restricted freedoms, most prefer to feel safe than sorry. As a result, our politics are skewed a certain way. As the greater public continually says, “Better safe than sorry,” in turn the government justifies its actions with “Better safe than sorry, that’s what America wants.” Put bluntly, this is not the case where the status quo is acceptable. We are not dealing with a situation in which we could or could not change – in which the wheel ain’t broke so don’t fix it. Preventive detention in the aftermath of emergency has time and time again shown itself to be abusive when allowed to be under the sole discretion of the executive. And in many ways, the practice is incompatible with our enduring values of freedom, transparency, due process, and minority protections. Remember, absolute power corrupts absolutely. Bruce Ackerman attempted with his emergency constitution to place it beneath the purview of the legislative branch, but as we have shown, such a solution does not adequately address the fundamental problem of preventive detention: mistaken imprisonment. Oftentimes, preventive paradigms cast broad dragnets which subsequently result in the imprisonment of countless innocents – that is, individuals of a targeted minority group, e.g. persons of Arab ancestry or Muslim faith. The national security theorists, the Jack Bauer enthusiasts, have tried to convince us that increased security is all we require in times of emergency – that everything else is secondary. Exceptional times call for exceptional measures. Rights can be recovered, but can lives? Can nations? The reality is, however, the terrorist threat is not nearly as grave as these security apologists make it out to be. Yes, a terrorist attack is undoubtedly tragic and may even result in the loss of thousands of lives; nonetheless, it is not capable of toppling or overtaking governments. Isolated terrorist attacks, in short, are not existential threats. Too often, the safety – bought at the price of liberty – the government offers is illusory. As Steven T. Wax observes, “The searches of baby strollers at airports does little or nothing for safety in the air and nothing at all for the safety of trains, trucks, shipping, and chemical and power plants.”20 We need to be smart about our security and not buy into the fallacy of the more intrusive security measures automatically leads to greater safety. Not to mention, as has been shown throughout this paper, rounding up people based on paranoia, profiling, or any other arbitrary reason, not only does nothing to help our security, but also harms us insofar as we fail to differentiate between the legitimate and the illegitimate. Indeed, such actions damage our integrity as a country that believes in the maxim “innocent until proven guilty,” as a country that believes there is more to life than feeling safe and secure in our physical and material being. We need to instead ask ourselves exactly how much freedom we are willing to give up in the name of increased security? We must keep in mind the long-term costs, and not just the short-term benefits, of granting our president, our law enforcement, and our military freer and freer reign. Small sacrifices inevitably accumulate, and subsequently can morph into much bigger sacrifices than we are actually willing to give up. Furthermore, we owe those harmed – those wrongly detained – better than just monetary compensation. They deserve more than a “sorry” or an “our mistake, here’s some cash to make you whole.” They warrant, at the very least, an apology which vows this is the last time we make this recurring mistake: “We sincerely apologize for your wrongful detention, we will do our very best to make sure this does not happen again.” And so, in arguing for a framework in which the Suspension Clause is the absolute minimum in the arena of preventive detention, we remain the most true to our American ideals.21 It is then, during times of crisis and emergency, the task of the judiciary – the most politically-insulated branch of government – to uphold the writ of habeas corpus in its constitutional form, i.e. the Suspension Clause, and thereby set the absolute minimum in times of exigency. It is the responsibility of judges to force the executive to justify his actions in a court of law as well as the court – domestic and international – of public opinion. Most importantly, it is the time-honored duty of this nation’s legal guardians to ensure that the ideals which informed our founding are not lost. In more colloquial terms, it is up to our judges – through the vehicle of habeas corpus – to be the good man in the storm. After all, in the age of terror, “[i]f anybody destroys our legacy of freedom, it will be us.”22 Thus, the upkeep and preservation of our freedom, our values and beliefs, is our responsibility – and ours alone. Indeed, by the time Al Maqaleh, or another case like it, comes before the Supreme Court of the United States, we – the people, the lawyers, the judges – should be prepared to not simply enforce the new habeas emergency paradigm by extending the writ to all those detained by the United States, but also to do better, with each subsequent generation, as a nation dedicated to an enduring legacy of freedom.

Presidential adventurism causes nuclear war

Symonds 4-5-13 [Peter, leading staff writer for the World Socialist Web Site and a member of its International Editorial Board. He has written extensively on Middle Eastern and Asian politics, contributing articles on developments in a wide range of countries, “Obama’s “playbook” and the threat of nuclear war in Asia,” http://www.wsws.org/en/articles/2013/04/05/pers-a05.html]

The Obama administration has engaged in reckless provocations against North Korea over the past month, inflaming tensions in North East Asia and heightening the risks of war. Its campaign has been accompanied by the relentless demonising of the North Korean regime and claims that the US military build-up was purely “defensive”. However, the Wall Street Journal and CNN revealed yesterday that the Pentagon was following a step-by-step plan, dubbed “the playbook”, drawn up months in advance and approved by the Obama administration earlier in the year. The flights to South Korea by nuclear capable B-52 bombers on March 8 and March 26, by B-2 bombers on March 28, and by advanced F-22 Raptor fighters on March 31 were all part of the script.¶ There is of course nothing “defensive” about B-52 and B-2 nuclear strategic bombers. The flights were designed to demonstrate, to North Korea in the first instance, the ability of the US military to conduct nuclear strikes at will anywhere in North East Asia. The Pentagon also exploited the opportunity to announce the boosting of anti-ballistic missile systems in the Asia Pacific and to station two US anti-missile destroyers off the Korean coast.¶ According to CNN, the “playbook” was drawn up by former defence secretary Leon Panetta and “supported strongly” by his replacement, Chuck Hagel. The plan was based on US intelligence assessments that “there was a low probability of a North Korean military response”—in other words, that Pyongyang posed no serious threat. Unnamed American officials claimed that Washington was now stepping back, amid concerns that the US provocations “could lead to miscalculations” by North Korea.¶ However, having deliberately ignited one of the most dangerous flashpoints in Asia, there are no signs that the Obama administration is backing off. Indeed, on Wednesday, Defence Secretary Hagel emphasised the military threat posed by North Korea, declaring that it presented “a real and clear danger”. The choice of words was deliberate and menacing—an echo of the phrase “a clear and present danger” used to justify past US wars of aggression.¶ The unstable and divided North Korean regime has played directly into the hands of Washington. Its bellicose statements and empty military threats have nothing to do with a genuine struggle against imperialism and are inimical to the interests of the international working class. Far from opposing imperialism, its Stalinist leaders are looking for a deal with the US and its allies to end their decades-long economic blockade and open up the country as a new cheap labour platform for global corporations.¶ As the present standoff shows, Pyongyang’s acquisition of a few crude nuclear weapons has in no way enhanced its defence against an American attack. The two B-2 stealth bombers that flew to South Korea could unleash enough nuclear weapons to destroy the country’s entire industrial and military capacity and murder even more than the estimated 2 million North Korean civilians killed by the three years of US war in Korea in the 1950s.¶ North Korea’s wild threats to attack American, Japanese and South Korean cities only compound the climate of fear used by the ruling classes to divide the international working class—the only social force capable of preventing war.¶ Commentators in the international media speculate endlessly on the reasons for the North Korean regime’s behaviour. But the real question, which is never asked, should be: why is the Obama administration engaged in the dangerous escalation of tensions in North East Asia? The latest US military moves go well beyond the steps taken in December 2010, when the US and South Korean navies held provocative joint exercises in water adjacent to both North Korea and China.¶ Obama’s North Korea “playbook” is just one aspect of his so-called “pivot to Asia”—a comprehensive diplomatic, economic and military strategy aimed at ensuring the continued US domination of Asia. The US has stirred up flashpoints throughout the region and created new ones, such as the conflict between Japan and China over the disputed Senkaku/Diaoyu islands in the East China Sea. Obama’s chief target is not economically bankrupt North Korea, but its ally China, which Washington regards as a dangerous potential rival. Driven by the deepening global economic crisis, US imperialism is using its military might to assert its hegemony over Asia and the entire planet.¶ The US has declared that its military moves against North Korea are designed to “reassure” its allies, Japan and South Korea, that it will protect them. Prominent figures in both countries have called for the development of their own nuclear weapons. US “reassurances” are aimed at heading off a nuclear arms race in North East Asia—not to secure peace, but to reinforce the American nuclear monopoly.¶ The ratcheting-up of tensions over North Korea places enormous pressures on China and the newly-selected leadership of the Chinese Communist Party. An unprecedented public debate has opened up in Beijing over whether or not to continue to support Pyongyang. The Chinese leadership has always regarded the North Korean regime as an important buffer on its northeastern borders, but now fears that the constant tension on the Korean peninsula will be exploited by the US and its allies to launch a huge military build-up.¶ Indeed, all of the Pentagon’s steps over the past month—the boosting of anti-missile systems and practice runs of nuclear capable bombers—have enhanced the ability of the US to fight a nuclear war against China. Moreover, the US may not want to provoke a war, but its provocations always run the risk of escalating dangerously out of control. Undoubtedly, Obama’s “playbook” for war in Asia contains many more steps beyond the handful leaked to the media. The Pentagon plans for all eventualities, including the possibility that a Korean crisis could bring the US and China head to head in a catastrophic nuclear conflict.

Judicial deference props up military adventurism and illegal arms sales

Scales and Spitz 12 (Ann Scales, prof at U Denver law school. Laura Spitz, prof at U Colorado Law School. The Jurisprudence of the Military-Industrial ComplexSeattle Journal for Social Justice Volume 1 | Issue 3 Article 51 10-11-2012)

First, our nation’s history and legitimacy rest upon a separation of military power from democratic governance. For that reason, the armed forces are subject to constitutional constraint. Second, however, as an aspect of separation of powers, courts try not to interfere in areas of foreign policy and military affairs. Often this is referred to as the “political question” doctrine, a determination that a matter is beyond the capabilities of judges. The strongest argument for this deference is that the political branches—or the military itself—have superior expertise in military matters. That may be true in some situations. I am not sure, for example, the Supreme Court would have been the best crowd to organize the invasion of Normandy. But what we now have is an increasingly irrational deference.7 Consider three cases: a. In Korematsu v. United States,8 the Supreme Court said the internment of Japanese-Americans at the beginning of 1942 was constitutional, based upon a military assessment of the possibility of espionage in preparation for a Japanese invasion of the United States. It turns out that the information provided by the military to the Supreme Court was falsified.9 But note two things: (1) the nation was in the midst of a declared world war, and (2) in subsequent less urgent circumstances, Korematsu would seem to argue strongly for military justifications to have to be based upon better, more reliable information than was offered there. b. In the 1981 case of Rostker v. Goldberg,10 the Supreme Court decided that it was constitutional for Congress to exclude women from the peacetime registration of potential draftees, even though both the Department of Defense and the Army Chief of Staff had testified that including women would increase military readiness. But Congress got the benefit of the military deference doctrine as a cover for what I think was a sinister political purpose—to protect the manliness of war—and the Supreme Court felt perfectly free to ignore what those with the real expertise had to say. c. Most recently, in Hamdi v. Rumsfeld,11 the Fourth Circuit held that a U.S. citizen who had been designated an “enemy combatant”12 could be detained indefinitely without access to counsel. In this case, however, not only is there no declared war,13 but also, the only evidence regarding Mr. Hamdi was a two-page affidavit by a Defense Department underling, Mr. Mobbs. Mobbs stated that Mr. Hamdi was captured in Afghanistan, and had been affiliated with a Taliban military unit. The government would not disclose the criteria for the “enemy combatant” designation, the statements of Mr. Hamdi that allegedly satisfied those criteria, nor any other bases for the conclusion of Taliban “affiliation.”14 And that is as good as the evidence for life imprisonment without trial has to be. Deference to the military has become abdication. In other words, what we presently have is not civilian government under military control, but something potentially worse, a civilian government ignoring military advice,15 but using the legal doctrine of military deference for its own imperialist ends. Third, the gigantic military establishment and permanent arms industry are now in the business of justifying their continued existences. This justification is done primarily, as you know, by retooling for post-Cold War enemies—the so-called “rogue states”—while at the same time creating new ones, for example by arming corrupt regimes in Southeast Asia.16 I was reminded of this recently when we went to see comedian Kate Clinton. She thought Secretary Powell had taken too much trouble in his presentation attempting to convince the Security Council that Iraq had weapons of mass destruction.17 Why not, she asked, “just show them the receipts?” Fourth, we have seen the exercise of extraordinary influence by arms makers on both domestic and foreign policy. For domestic pork barrel and campaign finance reasons, obsolete or unproven weapons systems continue to be funded even when the military does not want them!18 And, just when we thought we had survived the nuclear arms race nightmare, the United States has undertaken to design new kinds of nuclear weapons,19 even when those designs have little military value.20 Overseas, limitations on arms sales are being repealed, and arms markets that should not exist are being constantly expanded21 for the sake of dumping inventory, even if those weapons are eventually used for “rogue” purposes by rogue states. This system skews security considerations, and militarizes foreign policy. Force has to be the preferred option because other conduits of policy are not sufficiently well-funded. Plus, those stockpiled weapons have got to be used or sold so that we can build more. Fifth, enlarging upon this in a document entitled The National Security Policy of the United States, we were treated last September to “the Bush doctrine,” which for the first time in U.S. history declares a preemptive strike policy. This document states, “America will act against emerging threats before they are fully formed.”22 If they are only emerging and not fully formed, you may wonder, how will we know they are “threats”? Because someone in Washington has that perception, and when the hunch hits, it is the official policy of this country to deploy the military.23 All options—including the use of nuclear weapons—are always on the table.

Arms sales rapidly escalate Middle East war – that’s the most likely scenario for escalation in the region

Cunningham 12 (Erin, Erin Cunningham is GlobalPost’s editor for the Middle East, Africa, Afghanistan and Pakistan. Erin has reported from the Middle East, South Asia and the Balkans for five years, covering Kosovo's independence, the military surge in Afghanistan, protests in Cairo's Tahrir Square, the first democratic elections in Tunisia, and Israeli military operations in Gaza. Small arms fuel Middle East conflicts http://www.globalpost.com/dispatch/news/regions/middle-east/121128/small-arms-middle-east-conflict-weapons)

From Libya to Syria, Yemen and the Gaza Strip, everything from shotguns and semi-automatic rifles to anti-tank and anti-aircraft weapons are making local and regional conflicts more lethal, scarring the societies where the weapons end up. And analysts say the problem is only getting worse. “Things have intensified since the Arab Spring,” said Martin Butcher, arms policy adviser at London-based Oxfam, about the region’s weapons trade. “There were particularly troubled hotspots in the Middle East, where illegal or grey market transfers were the norm,” he said, referring to a type of weapons transaction that may begin as legal but diverts arms to illegal end-markets. As the unrest spread, he said, so did the illicit weapons flows. “It’s starting to get worse,” he concluded. Long-term conflicts in the Middle East have helped flood the region with small arms. Some of the weapons arrive as bribes from Western governments to oppressive regimes for maintaining peace with Israel or are acquired by armed groups challenging state power, such as Kurdish separatists in Turkey and Iraq. Gathering comprehensive, accurate data on the region’s small arms trade is difficult because regional governments lack transparency. But according to the Congressional Research Service, the US Congress’s public policy research arm, the Middle East is the developing world’s largest arms market. The United States is the leading exporter of legal small arms to governments across the region. It sold $1.1 billion of weapons to Bahrain, Egypt and Yemen from 2005 to 2010. Some of the arms have ended up on the black market and in the hands of smugglers like Abu Ibrahim. His Bedouin kin in Sinai’s north have engaged in a low-intensity conflict with heavy-handed security forces for years. The conflict is fueled largely by the presence of illicit small arms, including recent shipments from post-Gaddafi Libya, where ordinary people joined rebels pillaging arsenals during the civil war. During the tumult that accompanied the Arab Spring, weakened or toppled governments in Egypt, Libya and Syria withdrew from borders and other guarded areas, giving up weapons stocks as they fled rebel fighters. Across the Sinai Peninsula — where police and intelligence forces recently retreated under fire from armed protesters — smugglers, Islamic militants, criminal networks and armed gangs are amassing even more weapons that have poured across Egypt’s porous border with Libya. Locals say that in addition to assault rifles, Soviet-made large-caliber machine guns, US-manufactured Glock pistols, Chinese shotguns, anti-tank weapons and rocket-propelled grenade launchers are all feeding the frequent armed confrontations between militants, locals and Egyptian security forces. “This has always been a passageway for wars,” Ibrahim said. “We’re not treated well by the authorities. If we were, we wouldn’t need weapons.” Illegal weapons shipments from Libya and Iran are helping fuel the full-scale civil war in Syria, where a peaceful uprising developed into an armed conflict that’s killed around 30,000 people, according to anti-government activists. Oxfam’s Butcher pointed to reports saying weapons are being shipped directly from Benghazi, the cradle of Libya’s uprising, to the rebel Free Syria Army via Lebanon. “It is absolutely clear that the sustained battle in Aleppo couldn’t possibly have happened without a large amount of arms coming in from outside,” he said. Syria’s largest city has been at the center of a pitched battle between the Free Syrian Army and the forces of President Bashar al-Assad for months. “There is a very steady flow of arms going in — from Lebanon, Iraq, Turkey and even Jordan,” said Nicolas Marsh, an arms researcher at the Norwegian Initiative for Small Arms Transfers, a coalition of civil society groups seeking to reduce armed violence. “If the opposition in Syria had run out of ammunition, they would have lost right away.” Illegal small arms can tilt the balance of power in some conflicts, but they often help entrench stalemates in which the breakdown of infrastructure and services increases perceptions of insecurity — and intensifies violence.

Middle East wars cause extinction

Russell, 9 (James A. Russell, Senior Lecturer, National Security Affairs, Naval Postgraduate School, ‘9 (Spring)
“Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” IFRI, Proliferation Papers//, #26, \_\_http://www.ifri.org/downloads/PP26\_Russell\_2009.pdf\_\_)

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

Judicial deference justifies military medical and bioweapons research

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

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

That risks bioweapons use—theft, arms racing, tradeoff

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

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

War escalates and spreads diseases, collapses defensive infrastructures

Dudley and Woodford, 2002 (Joseph P. Dudley is a consultant on military environmental and conservation policy issues with Versar, Inc., and a research associate at the Institute of Arctic Biology, University of Alaska Fairbanks, and at the Department of Earth Sciences, University of Alaska Museum. Michael H. Woodford is a fellow of the Royal College of Veterinary Surgeons, London, and chair of the Working Group on Wildlife Diseases at the Office International des Epizooties, World Organization for Animal Health, Algarve, Portugal: "Bioweapons, Biodiversity, and Ecocide: Potential Effects of Biological Weapons on Biological Diversity"; BioScience Vol. 52 No. 7, posted online January 5, 2009, http://caliber.ucpress.net/doi/full/10.1641/0006-3568%282002%29052%5B0583%3ABBAEPE%5D2.0.CO%3B2)

**Breakdowns in medical and veterinary support systems during wars** and civil conflicts have **resulted in** epidemic **outbreaks of diseases** within and among human, livestock, and wildlife populations (Lawrence et al. 1980, Kobuch et al. 1990). **Recent outbreaks** of several lethal epizootic diseases (monkeypox, Marburg fever, plague) in Central Africa **have been linked** to increased human **consumption of species of wild animals** (e.g., squirrels and rodents) as **the result of wartime food shortages**, coupled with the disappearance of preferred bushmeat species (primates, duikers) caused by overharvesting for the bushmeat trade (Fenner 1993, IRIN 1997, Dudley et al. 2002). **The Iran–Iraq war and the Gulf war precipitated rinderpest epizootics** among livestock populations in that region, which may have been caused or aggravated by war-related displacements of pastoralists and their flocks (Roeder 1999). **Disruption of government veterinary** **services** during the civil war in Southern Rhodesia is believed to **have contributed to** epidemic outbreaks of **anthrax and rabies** among wild and domesticated animals in that country, now named Zimbabwe. Anthrax mortality among humans and livestock reached epidemic proportions in 1979 and 1980 and continued to proliferate for more than 4 years following the end of the civil war in 1980 (Lawrence et al. 1980, Kobuch et al. 1990). Control and containment of the disease may have been hindered by internal ethnic and political conflicts in the Matabeleland region during the early postwar era (1980–1984). Anthrax ultimately spread through six of Zimbabwe's eight provinces, with more than 10,000 recorded human cases before effective control of the disease was finally reestablished in 1987 (Pugh and Davies 1990). Although anthrax is endemic to the Matabeleland region of Zimbabwe, where the outbreak first appeared and proliferated, widely publicized speculation has it that the 1979–1987 anthrax epidemic may have been linked to covert operations of the apartheid South African Defense Force, the Rhodesian Central Intelligence Organization, or rival guerrilla factions (Carus 2001).

Bioweapons risk extinction

Ochs, 2 (Richard, BS in Natural Resource Management from Rutgers University, with honors, BIOLOGICAL WEAPONS MUST BE IMMEDIATELY ABOLISHED, http://www.freefromterror.net/other\_articles/abolish.html)

Of all the weapons of mass destruction, the genetically engineered biological weapons, many without a known cure or vaccine, are an extreme danger to the continued survival of life on earth. Any perceived military value or deterrence pales in comparison to the great risk these weapons pose just sitting in vials in laboratories. **While a "nuclear winter**," resulting from a massive exchange of nuclear weapons, **could also kill off most of life** on earth and severely compromise the health of future generations, **they are easier to control.** Biological weapons, on the other hand, can get out of control very easily, as the recent anthrax attacks has demonstrated. There is no way to guarantee the security of these doomsday weapons because very tiny amounts can be stolen or accidentally released and then grow or be grown to horrendous proportions. The Black Death of the Middle Ages would be small in comparison to the potential damage bioweapons could cause**. Abolition of chemical weapons is less of a priority** because, while they can also kill millions of people outright, **their persistence in the environment would be less than** nuclear or **biological agents or more localized**. Hence, chemical weapons would have a lesser effect on future generations of innocent people and the natural environment. Like the Holocaust, once a localized chemical extermination is over, it is over. **With** nuclear and **biological weapons, the killing will** probably **never end**. Radioactive elements last tens of thousands of years and will keep causing cancers virtually forever. Potentially worse than that, **bio-engineered agents by the hundreds with no known cure could wreck** even **greater calamity** on the human race **than** could **persistent radiation.** AIDS and ebola viruses are just a small example of recently emerging plagues with no known cure or vaccine. Can we imagine hundreds of such plagues? HUMAN EXTINCTION IS NOW POSSIBLE**.**

## Advantage 2: Legitimacy

Denying habeas corpus kills US leadership and alienates allies – only rule of law application solves

Yang ’11 (Christina – dissertation @ Emory, advised by Michael Sullivan - PhD, Vanderbilt University, 2000 JD, Yale Law School, 1998 “Reconstructing Habeas: Towards a New Emergency Scheme!”

In this global war on terror, America cannot stand alone. But in the aftermath of 9/11, we have become more and more alone. “Once a leading exponent of the rule of law,” David Cole observes, “the United States is now widely viewed as a systematic and arrogant violator of the most basic norms of human rights law – including the prohibitions against torture, disappearances, and arbitrary detention.”104 We cannot afford to alienate our friends with our actions. This loss of legitimacy is not simply harmful because it paints us in hypocritical colors, but because it also leaves us more vulnerable to terrorist attack inasmuch our governmental abuses in the arena of detention “fuels the animus and resentment that inspire the attacks against us in the first place.”105 We only confirm what the terrorists have been saying all along. In the end, the fight against terrorism is fundamentally a battle for hearts and minds.106 The more we win over our enemies, the fewer enemies we have to be concerned about. But the battle is not won with money; it is not won with victory. It is won by a long term commitment to civil liberties and the rule of law – everything that America was once known to stand for – as well as proof that even in the short term, we will act with legitimacy, fairness, and within the constraints of law. “As any leader instinctively knows,” Cole advises, “it is far better to have people follow your lead because they view you as legitimate than to have to try to compel others by force to adhere to your will.”107 Our allies were once willing to aid us in our cause – for the cause, the fight against terrorism, is neither illegitimate nor unworthy of pursuit. They are more reluctant now because we have compromised our legitimacy – i.e., the sincerity of our reasons for fighting this fight – when we employ illegitimate means to reach our ends. We require the help of our allies; and so in order to keep them on our side, we need to maintain “our historic position of leadership in the global spread of the rule of law,” thus reminding them of the “virtue of [the] legal commitments they [too] have made.”108

SCOTUS ruling solves legitimacy

Ghosh ’11 (Saurav - Stanford Law School, J.D. Candidate, 2011) “BOUMEDIENE APPLIED BADLY: THE EXTRATERRITORIAL CONSTITUTION AFTER AL-MAQALEH V. GATES”

B. The Changed International System Beyond a basic need for fairness and consistency, the Supreme Court should articulate a functional test for extraterritoriality generally because the changed international system requires it. The world has radically changed in the six decades since Eisentrager was decided; in many important ways, it has even changed since 1990 (the year Verdugo was decided). Commentators note that non-state actors occupy an increasingly significant position in international affairs today.137 Technological development and globalization have allowed these entities, which are often unaffiliated with any particular state, to exercise tremendous power and influence. The al-Qaeda terrorist network provides the most visible example of a non-state group that operates fluidly across state boundaries without hesitation. Its operatives hail from nations around the world, and its operations target countries from England to Indonesia. In short, non- state actors like al-Qaeda transcend both territorial borders and nationality. An al-Qaeda terrorist can be defined only by his allegiance and conduct, not as a citizen of any particular nationality or as an agent operating within the borders of any particular state. In response, governments have recognized the increased need to disregard once clear boundaries, like territorial borders and nationality, to deal with the new security challenges presented by non-state actors.138 After the terrorist attacks of 9/11, the U.S. commenced both a traditional international armed conflict within Afghanistan and a broader military effort (a transnational armed conflict)139 to counter terrorism globally. U.S. forces today are engaged in a concerted effort to apprehend terrorist operatives of any nationality, wherever they might be,140 and as part of that effort, U.S. forces could detain anyone, anywhere, who they believe is engaging in or supporting acts of terrorism. Just as the U.S. has recognized the need to extend its power overseas to combat the danger of terrorism, it must similarly recognize the imperative of extending substantive and procedural rights to limit the danger of unlawfully detaining innocents. In a world where non-state actors transcend both territoriality and nationality, and where government operations have responded by becoming equally global in scope, territorial sovereignty and nationality/citizenship have become outmoded principles by which to define the outer limits of extraterritoriality jurisprudence. For example, a French national could be captured in Australia, taken to Bagram, classified as an enemy combatant by a UECRB and detained without access to meaningful judicial review.141 Neither his citizenship nor his physical location precipitated this series of events.142 But his ability to meaningfully challenge his classification and detention would be entirely circumscribed because of his citizenship and the location of his capture and detention.143 Moreover, the fact that he is being detained in an active conflict zone—a matter entirely out of his hands and within the Executive branch’s control—will be the decisive factor in denying him access to habeas review (if one follows the D.C. Circuit’s interpretation in Al- Maqaleh).144 Finally, even if he could seek habeas relief, he would be unable to claim the basic due process rights necessary to do so.145 By contrasting this detainee’s experience with a U.S. citizen’s experience in a similar situation, the inequity becomes apparent. An American accused of being an al-Qaeda member and detained at Bagram would be permitted to challenge his detention and claim the substantive rights protections of the Due Process clause, even if all other circumstances of his capture and detention were the same as in the above example. Even a non-citizen residing in the U.S. would most likely be able to seek habeas review and challenge his detention.146 These examples strongly suggest that attaching strong importance to territorial sovereignty and nationality leads to arbitrary outcomes for non- citizens subjected to U.S. action abroad. In combating non-state organizations like al-Qaeda, U.S. agents must cast their net widely and will inevitably capture and detain individuals entirely innocent of wrongdoing. A bright-line rule that denies non-citizens outside the U.S. the ability to meaningfully challenge their detention, while allowing citizens or those held on U.S. territory to do so, erodes the legitimacy of the system. A changing international order requires a new approach to extraterritoriality, one that extends substantive and procedural protections to those who need them most: foreigners who are detained and branded as enemies without proper judicial process, in places where the U.S. exercises exclusive and plenary control. In the case of the procedural right, the Supreme Court has articulated an appropriate test in Boumediene; that test has simply been applied badly by the D.C. Circuit. With regard to substantive rights, the Supreme Court should articulate another functional, pragmatic test, to ensure that even non-citizen detainees held abroad can claim Due Process protection.

US leadership key to prevent loss of hegemony and major power wars – controls escalation of every impact

Knowles, 2009 (Robert, Acting assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution,” Arizona State Law Journal, 41 Ariz. St. L.J. 87, October)

International relations scholars are still struggling to define the current era. The U.S.-led international order is unipolar, hegemonic, and, in some ways, imperial. In any event, this order diverges from traditional realist assumptions in important respects. It is unipolar, but stable. It is more hierarchical. The U.S. is not the same as other states; it performs unique functions in the world and has a government open and accessible to foreigners. And the stability and legitimacy of the system depends more on successful functioning of the U.S. government as a whole than it does on balancing alliances crafted by elite statesmen practicing realpolitik. “[W]orld power politics are shaped primarily not by the structure created by interstate anarchy but by the foreign policy developed in Washington.”368 These differences require a new model for assessing the institutional competences of the executive and judicial branches in foreign affairs. One approach would be to adapt an institutional competence model using insights from a major alternative theory of international relations – liberalism. Liberal IR theory generally holds that internal characteristics of states – in particular, the form of government – dictate states behavior, and that democracies do not go to war against one another.369 Liberalists also regard economic interdependence and international institutions as important for maintaining peace and stability in the world.370 Dean Anne-Marie Slaughter has proposed a binary model that distinguishes between liberal, democratic states and non-democratic states.371 Because domestic and foreign issues are “more convergent” among liberal democracies, Slaughter reasons, the courts should decide issues concerning the scope of the political branches’ powers.372 With respect to non-liberal states, the position of the U.S. is more “realist,” and courts should deploy a high level of deference.373 A strength of Dean Slaughter’s binary approach is that it would tend to reduce the uncertainty in foreign affairs adjudication. Professor Nzelibe has criticized this approach because it would put courts in the difficult position of determining which countries are liberal democracies.374 But even if courts are capable of making these determinations, they would still face the same dilemmas adjudicating controversies regarding non-liberal states. Where is the appropriate boundary between foreign affairs and domestic matters? How much discretion should be afforded the executive when individual rights and accountability values are at stake? To resolve these dilemmas, an institutional competence model should be applicable to foreign affairs adjudication across the board. In constructing a new realist model, it is worth recalling that the functional justifications for special deference are aimed at addressing problems of a particular sort of role effectiveness—which allocation of power among the branches will best achieve general governmental effectiveness in foreign affairs. In the 21st Century, America’s global role has changed, and the best means of achieving effectiveness in foreign affairs have changed as well. The international realm remains highly political—if not as much as in the past— but it is American politics that matters most. If the U.S. is truly an empire— and in some respects it is—the problems of imperial management will be far different from the problems of managing relations with one other great power or many great powers. Similarly, the management of hegemony or unipolarity requires a different set of competences. Although American predominance is recognized as a salient fact, there is no consensus among realists about the precise nature of the current international order.375 The hegemonic model I offer here adopts common insights from the three IR frameworks—unipolar, hegemonic, and imperial—described above. First, the “hybrid” hegemonic model assumes that the goal of U.S. foreign affairs should be the preservation of American hegemony, which is more stable, more peaceful, and better for America’s security and prosperity, than the alternatives. If the United States were to withdraw from its global leadership role, no other nation would be capable of taking its place.376 The result would be radical instability and a greater risk of major war.377 In addition, the United States would no longer benefit from the public goods it had formerly produced; as the largest consumer, it would suffer the most. Second, the hegemonic model assumes that American hegemony is unusually stable and durable.378 As noted above, other nations have many incentives to continue to tolerate the current order.379 And although other nations or groups of nations—China, the European Union, and India are often mentioned—may eventually overtake the United States in certain areas, such as manufacturing, the U.S. will remain dominant in most measures of capability for decades to come. In 2025, the U.S. economy is projected to be twice the size of China’s.380 The U.S. accounted for half of the world’s military spending in 2007 and holds enormous advantages in defense technology that far outstrip would-be competitors.381 Predictions of American decline are not new, and they have thus far proved premature.382 Third, the hegemonic model assumes that preservation of American hegemony depends not just on power, but legitimacy.383 All three IR frameworks for describing predominant states—although unipolarity less than hegemony or empire—suggest that legitimacy is crucial to the stability and durability of the system. Although empires and predominant states in unipolar systems can conceivably maintain their position through the use of force, this is much more likely to exhaust the resources of the predominant state and to lead to counter-balancing or the loss of control.384 Legitimacy as a method of maintaining predominance is far more efficient. The hegemonic model generally values courts’ institutional competences more than the anarchic realist model. The courts’ strengths in offering a stable interpretation of the law, relative insulation from political pressure, and power to bestow legitimacy are important for realizing the functional constitutional goal of effective U.S. foreign policy. This means that courts’ treatment of deference in foreign affairs will, in most respects, resemble its treatment of domestic affairs. Given the amorphous quality of foreign affairs deference, this “domestication” reduces uncertainty. The increasing boundary problems caused by the proliferation of treaties and the infiltration of domestic law by foreign affairs issues are lessened by reducing the deference gap. And the dilemma caused by the need to weigh different functional considerations—liberty, accountability, and effectiveness—against one another is made less intractable because it becomes part of the same project that the courts constantly grapple with in adjudicating domestic disputes.

New negotiations are coming that will make or break the protocol

Grabiel & Comerford 13

Danielle Fest Grabiel, IGSD Law Fellow, and Ms. Lia Comerford, IGSD Law Clerk¶ Enforcement Strategies for ¶ Combating the Illegal Trade¶ in HCfCs and Methyl Bromide¶ http://inece.org/wp-content/uploads/2013/06/Illegal\_Trade\_HCFCs\_Methyl-Bromide.pdf

Last year the world celebrated the Protocol’s 25th anniversary and its remarkable success. Parties to this agreement ¶ have much to celebrate; through concerted international effort, they phased out 98% of production and consumption ¶ of nearly 100 ozone depleting substances (ODS), setting the ozone layer on the path to recovery. Because these ¶ chemicals also caused global warming, reducing them has made a significant contribution to climate protection.¶ All governments know, however, that their job is not yet complete. Continued implementation of commitments and ¶ vigilance in enforcement are essential to ensuring that their good work is not undone in the coming years. ¶ A burgeoning illegal trade in ozone-depleting substances regulated under the Montreal Protocol could undermine ¶ its success. It is a challenge—and a growing challenge - facing many multilateral environmental agreements and ¶ initiatives trying to assist in a transition to a Green Economy and achieve sustainable development including those ¶ trying to regulate trade in wildlife, timber and other chemicals and hazardous wastes.¶ In respect to the Montreal Protocol, as the reduction schedules for HCFCs and methyl bromide draw near, and as ¶ worldwide supplies of these chemicals become scarce, the incidence of smuggling is expected to rise. The world ¶ faced a similar threat in the early 1990’s when a significant black market trade in chlorofluorocarbons (CFCs) and ¶ other ODS arose as an unintended result of Montreal Protocol controls. Fortunately, the Parties, together with their ¶ partners in industry and civil society rose to the challenge and the illegal trade in CFCs and other ODS declined ¶ significantly. ¶ As the Parties confront the challenge of preventing and detecting illegal trade in HCFCs and methyl bromide, much ¶ can be learned from how the world responded to the CFC smuggling crisis. Although the rapid globalization of ¶ trade and the advent of the Internet have created additional enforcement challenges, the pillars of an effective ¶ enforcement program remain the same. Now it is more important than ever that enforcement officers are trained ¶ and prepared to effectively address smuggling.

Only maintaining effective treaty cooperation can prevent extinction from Ozone depletion

Gareau 13

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Whatever Happened to Ozone Layer Politics?

http://www.e-ir.info/2013/01/29/whatever-happened-to-ozone-layer-politics/

The Montreal Protocol on Substances that Depletes the Ozone Layer (1997) is arguably the most successful global environmental agreement ever created. The ozone layer is the Earth’s sunscreen, absorbing up to 99 per cent of the sun’s ultraviolet (UV) radiation. Without it, life on earth would not exist. The Montreal Protocol was created to eliminate human-made chemicals that destroy the ozone layer, what we call “ozone-depleting substances” (ODSs). ODSs destroy the ozone layer, thus allowing more UV radiation to hit the surface and increasing skin cancer and skin disease rates, eye cataracts, damage to the immune system, and sunburn in humans and other animals. The Protocol sought to put a halt to such harmful effects, chiefly to rid the world of chlorofluorocarbons, or CFCs.¶ ¶ The most famous ozone holes occur over the Antarctic. In 2006, an Antarctic ozone hole reached a record 11.4 million square miles wide, larger than all of North America. While it mostly covers uninhabited land, the Antarctic ozone hole does reach some populated areas in South America as it is quite mobile. The Arctic hole, a newer phenomenon, has a potentially larger impact on humans. The 2011 Arctic ozone hole moved from the North Pole into Scandinavia and Greenland. The World Meteorological Organization cautioned habitants to protect themselves from the strong UV rays. Parts of Canada and Russia have also been affected lately. It is possible that “ozone depleted air” will move south with the Arctic polar vortex, potentially reaching northern Italy, New York, and San Francisco.¶ ¶ The US Environmental Protection Agency estimates that increased UV exposure will lead to “150 million cases of skin cancer and three million deaths during the course of the 21st century at an economic cost of $6 trillion.”[1] Beyond skin cancer, reduced ozone has also been shown to “increase rates of malaria and other infectious diseases.”[2] According to the American Cancer Society, in 2010 in the US alone more than 1 million new cases of skin cancer were expected, 68,000 of which would be melanoma. The odds of contracting melanoma increased from 1:250 to 1:84 over the last quarter century. By the age of 70, 2/3 of Australians will be diagnosed with skin cancer, accounting for “80% of all new cancers diagnosed each year in Australia.”[3] More than 1,000 people in Australia are treated for skin cancer daily. In southern Chile, where ozone layer thinning is extreme, skin cancer rates have escalated 66 per cent since 1994. UV radiation also contributes to genetic disorders – especially in small aquatic species and amphibians. While plants require solar energy to photosynthesize, too much UV radiation stunts plant growth and can lead to a decrease in yields for important crops. Additionally, more UV radiation creates other economic costs by accelerating the degradation of materials such as plastics, paints, and rubber.¶ ¶ ODSs such as CFCs were used as early on as the late nineteenth century, when they became chief ingredients for fire extinguishers. By the 1970s, 200,000 metric tons of CFCs were used in aerosols annually in the US alone. Soon after, it became increasingly evident that CFCs had a major side-effect: they depleted the ozone layer. CFC and other ODSs are being eliminated through the Montreal Protocol because these and other ODSs threaten life on earth. Today, every single country on the planet has ratified the Montreal Protocol.¶ ¶ Since the Montreal Protocol first entered into force in 1989, CFC levels in the atmosphere have declined. Scientific research predicts that, without the Montreal Protocol, by 2050 even the middle latitudes of the Northern Hemisphere would have lost half of their ozone layer, and the Southern Hemisphere would have lost 70 percent. As Jonathan Shanklin of the British Antarctic Survey put it, the Montreal Protocol “is working. We can quite clearly see that the amount of ozone-destroying substances in the atmosphere is declining.”[4] Because of the high level of compliance and cooperation among countries, it is no exaggeration to state that the Montreal Protocol is the most successful global environmental treaty ever created.¶ Montreal versus Kyoto: Insights for the Climate Regime?¶ ¶ Many scholars working in global environmental governance have rightly welcomed the unparalleled successes of the Montreal Protocol. Many believe that the Protocol contains all the ingredients necessary for any successful global environmental regime: scientific consensus and good networking among those scientists; cooperative nation-states willing to put global health ahead of national concerns; and an involved global civil society. Global climate change, we are told, presents an obvious example where the successes of the Montreal Protocol may shed light on global treaties such as the Kyoto Protocol, where attempts at real action to thwart climate change remain stalled. Recognizing that the Montreal Protocol arose out of specific circumstances, many ozone scholars maintain that it is possible that those circumstances could be duplicated in other global environmental treaties.¶ ¶ However, if we look at the Montreal Protocol in its more recent past, we can see that it has suffered significantly from major setbacks that more closely resemble the ruinous state of global climate change politics than the flourishing early days of ozone politics. Comparisons could even be made between the Climate Gate scandal, where climatologists were accused by climate skeptics of “acting political” by manipulating climate data, and the Montreal Protocol, where ozone scientists were also accused of “acting political” and manipulating MeBr data by the US government.¶ ¶ Urgency regarding global environmental challenges like global climate change has only grown over the years. This even applies to the ozone situation today. In 2011 the BBC reported on how “ozone depletion is often viewed as an environmental problem that has been solved,” but much uncertainty remains with regards to ozone layer recovery, especially since climate change science is so complicated and interconnected with the ozone layer.[5] “The ozone layer remains vulnerable to large depletions because total stratospheric chlorine levels are still high, in spite of the regulation of ozone-depleting substances by the Montreal Protocol” warns Paul Newman, an atmospheric scientist at NASA’s Goddard Space Flight Center.[6]¶ ¶ Today, interest groups attempting to hold back global and regional environmental governance appear to be up against a growing wall of scientific evidence that humans are having serious negative effects on the global environment. Ironically, at such a moment of heightened environmental awareness, the Montreal Protocol entered its own moment of uncertainty.

The Montreal Protocol is at risk and the U.S. is trying to lead efforts to strengthen it

US-EPA 12

U.S. Environmental Protection Agency¶ June 2012¶ 2¶ Benefits of Addressing HFCs under the Montreal Protocol¶ June 2012 http://www.epa.gov/ozone/downloads/Benefits%20of%20Addressing%20HFCs%20Under%20the%20Montreal%20Protocol,%20June%202012.pdf

The Montreal Protocol has been an unparalleled environmental success story. It is the only international agreement to achieve universal ratification. It has completed an enormous task in the phaseout of CFCs and halons—chemicals that had become pervasive in multiple industries. It established a schedule to phaseout the remaining important ODS (namely, HCFCs). Under the Montreal Protocol, Article 5 and non-Article 5 countries together have not only set the ozone layer on a path to recovery by mid-century but have reduced greenhouse gases by over 11 Gigatons CO2eq per year, providing an approximate 10-year delay in the onset of the effects of climate change.34 This legacy is now at risk. Although safe for the ozone layer, the continued emissions of HFCs— primarily as alternatives to ODS but also from the continued production of HCFC-22—will have an immediate and significant effect on the Earth’s climate system. Without further controls, it is predicted that HFC emissions could negate the entire climate benefits achieved under the Montreal Protocol. HFCs are rapidly increasing in the atmosphere. HFC-use is forecast to grow, mostly due to increased demand for refrigeration and air conditioning, particularly in Article 5 countries. There is a clear connection to the Montreal Protocol’s CFC and HCFC phaseout and the increased use of HFCs. However, it is possible to maintain the climate benefits achieved by the Montreal Protocol by using climate-friendly alternatives and addressing HFC consumption. Recognizing the concerns with continued HFC consumption and emissions, the actions taken to date to address them, the need for continued HFC use in the near future for certain applications, and the needed for better alternatives, Canada, Mexico and the United States have proposed an amendment to phase down HFC consumption and to reduce byproduct emissions of HFC-23, the HFC with the highest GWP. The proposed Amendment would build on the success of the Montreal Protocol, rely on the strength of its institutions, and realize climate benefits in both the near and long-term. Table 10 displays the projected benefits from the Amendment.

That is key to avoiding climate tipping points

AP 9

AP, Fox News, “Obama Administration to Push For Major Initiative to Fight Global Warming”, 4/30/9

http://www.foxnews.com/politics/2009/04/30/obama-administration-push-major-initiative-fight-global-warming/#ixzz2eoLvyx00

The Obama administration, in a major environmental policy shift, is leaning toward asking 195 nations that ratified the U.N. ozone treaty to enact mandatory reductions in hydrofluorocarbons, according to U.S. officials and documents obtained by The Associated Press.¶ ¶ "We're considering this as an option," Environmental Protection Agency spokeswoman Adora Andy said Wednesday, emphasizing that while a final decision has not been made it was accurate to describe this as the administration's "preferred option."¶ ¶ The change -- the first U.S.-proposed mandatory global cut in greenhouse gases -- would transform the ozone treaty into a strong tool for fighting global warming.¶ ¶ "Now it's going to be a climate treaty, with no ozone-depleting materials, if this goes forward," an EPA technical expert said Wednesday, speaking on condition of anonymity because a final decision is pending.¶ ¶ The expert said the 21-year-old ozone treaty known as the Montreal Protocol created virtually the entire market for hydrofluorocarbons, or HFCs, so including them in the treaty would take care of a problem of its own making.¶ ¶ It's uncertain how that would work in conjunction with the Kyoto Protocol, the world's climate treaty, which now regulates HFCs and was rejected by the Bush administration. Negotiations to replace Kyoto, which expires in 2012, are to be concluded in December in Denmark.¶ ¶ The Montreal Protocol is widely viewed as one of the most successful environmental treaties because it essentially eliminated the use of chlorofluorocarbons, or CFCs, blamed for damaging the ozone layer over Antarctica.¶ ¶ Because they do not affect the ozone layer, HFCs broadly replaced CFCs as coolants in everything from refrigerators, air conditioners and fire extinguishers to aerosol sprays, medical devices and semiconductors.¶ ¶ But experts say the solution to one problem is now worsening another.¶ ¶ As a result, the U.S. is calling HFCs "a significant and growing source of emissions" that could be eliminated more quickly in several ways, including amending the ozone treaty or creating "a legally distinct agreement" linked to the Montreal Protocol, says a March 27 State Department briefing paper presented at one of two recent meetings on the topic.¶ ¶ State Department officials told participants at one of last month's meetings that the United States wants to amend the Montreal Protocol to phase out the use of HFCs, a change praised by environmentalists. But there appear to be some interagency snags.¶ ¶ Though the State Department secured backing from the Pentagon and other agencies for amending the Montreal Protocol, some opposition remains within the administration, U.S. officials say. It is not clear if the proposal to eliminate HFCs will be submitted by next week, in time to be considered at a meeting in November by parties to the Montreal Protocol.¶ ¶ Proponents say eliminating HFCs would have an impact within our lifetimes. HFCs do most of their damage in their first 30 years in the atmosphere, unlike carbon dioxide which spreads its impact over a longer period of time.¶ ¶ "Retiring HFCs is our best hope of avoiding a near-term tipping point for irreversible climate change. It's an opportunity the world simply cannot afford to miss, and every year we delay action on HFCs reduces the benefit," said Alexander von Bismarck, executive director of the Environmental Investigation Agency, a nonprofit watchdog group in Washington that first pitched the idea two years ago.¶ ¶ Globally, a huge market has sprung up around the use of HFCs, a man-made chemical, as a result of their promotion under the Montreal Protocol. Several billion dollars have been spent through an affiliated fund to prod countries to stop making and using CFCs and other ozone-damaging chemicals and to instead use cheap and effective chemicals like HFCs.¶ ¶ Scientists say eliminating use of HFCs would spare the world an amount of greenhouse gases up to about a third of all CO2 emissions about two to four decades from now. Manufacturers in both Europe and the U.S. have begun to replace HFCs with so-called natural refrigerants such as hydrocarbons, ammonia or carbon dioxide.¶ ¶ HFCs can be up to 10,000 times more powerful than carbon dioxide as climate-warming chemicals, according to U.S. government data.¶ ¶ Currently they account for only about 2 percent of all greenhouse-gas emissions, but the U.N.'s Intergovernmental Panel on Climate Change warned in 2005 that use of HFCs was growing at 8.8 percent per year.¶ ¶ More recent studies concur and show that HFCs are on a path to reach about 11 billion tons of greenhouse gases, which would constitute up to a third of all greenhouse gas emissions by sometime within 2030 and 2040 under some CO2-reduction scenarios.¶ ¶ House Democrats also are adding to the pressure on HFCs.¶ ¶ In an April 3 letter to President Barack Obama, California Rep. Henry Waxman, chairman of the House Energy and Commerce Committee, and Massachusetts Rep. Edward Markey, chairman of the energy and environment subcommittee, urged the White House to offer an amendment to the Montreal Protocol this year.¶ ¶ "Although we strongly support a comprehensive international agreement on climate change, we believe that adding HFCs to the existing Montreal Protocol would be a sensible, cost-effective method of addressing a small but growing piece of the problem," they wrote.¶ ¶ Waxman and Markey also have drafted legislation laying out a broad outline for phasing out HFCs in the United States.¶ ¶ Worldwide, phasing out HFCs under the Montreal Protocol could prevent 90 billion tons of greenhouse gases by 2040, by including nations like India and China that were not part of the Kyoto treaty.¶ ¶ Nations such as Argentina, the Federated States of Micronesia, Mauritius and Mexico have recently pushed for climate protections under the Montreal Protocol, arguing every possible tool must be used to combat climate change.¶ ¶ The EPA in April determined that hydrofluorocarbons were one of six greenhouse gases endangering human health and welfare, a ruling that could eventually lead to mandatory reductions in the U.S. under the Clean Air Act.¶ ¶ "This is a strong sign of new American leadership in atmospheric protection," said von Bismarck.

Warming is anthropogenic – most comphrensive analysis to date proves

Green 13 – Professor of Chemistry @ Michigan Tech,

\*John Cook – Fellow @ Global Change Institute, produced climate communication resources adopted by organisations such as NOAA and the U.S. Navy

\*\*Dana Nuccitelli – MA in Physics @ UC-Davis

\*\*\*Mark Richardson – PhD Candidate in Meteorology, et al.,

(“Quantifying the consensus on anthropogenic global warming in the scientific literature,” Environmental Research Letters, 8.2)

An accurate perception of the degree of scientific consensus is an essential element to public support for climate policy (Ding et al 2011). Communicating the scientific consensus also increases people's acceptance that climate change (CC) is happening (Lewandowsky et al 2012). Despite numerous indicators of a consensus, there is wide public perception that climate scientists disagree over the fundamental cause of global warming (GW; Leiserowitz et al 2012, Pew 2012). In the most comprehensive analysis performed to date, we have extended the analysis of peer-reviewed climate papers in Oreskes (2004). We examined a large sample of the scientific literature on global CC, published over a 21 year period, in order to determine the level of scientific consensus that human activity is very likely causing most of the current GW (anthropogenic global warming, or AGW). Surveys of climate scientists have found strong agreement (97–98%) regarding AGW amongst publishing climate experts (Doran and Zimmerman 2009, Anderegg et al 2010). Repeated surveys of scientists found that scientific agreement about AGW steadily increased from 1996 to 2009 (Bray 2010). This is reflected in the increasingly definitive statements issued by the Intergovernmental Panel on Climate Change on the attribution of recent GW (Houghton et al 1996, 2001, Solomon et al 2007). The peer-reviewed scientific literature provides a ground-level assessment of the degree of consensus among publishing scientists. An analysis of abstracts published from 1993–2003 matching the search 'global climate change' found that none of 928 papers disagreed with the consensus position on AGW (Oreskes 2004). This is consistent with an analysis of citation networks that found a consensus on AGW forming in the early 1990s (Shwed and Bearman 2010). Despite these independent indicators of a scientific consensus, the perception of the US public is that the scientific community still disagrees over the fundamental cause of GW. From 1997 to 2007, public opinion polls have indicated around 60% of the US public believes there is significant disagreement among scientists about whether GW was happening (Nisbet and Myers 2007). Similarly, 57% of the US public either disagreed or were unaware that scientists agree that the earth is very likely warming due to human activity (Pew 2012). Through analysis of climate-related papers published from 1991 to 2011, this study provides the most comprehensive analysis of its kind to date in order to quantify and evaluate the level and evolution of consensus over the last two decades. 2. Methodology This letter was conceived as a 'citizen science' project by volunteers contributing to the Skeptical Science website (www.skepticalscience.com). In March 2012, we searched the ISI Web of Science for papers published from 1991–2011 using topic searches for 'global warming' or 'global climate change'. Article type was restricted to 'article', excluding books, discussions, proceedings papers and other document types. The search was updated in May 2012 with papers added to the Web of Science up to that date. We classified each abstract according to the type of research (category) and degree of endorsement. Written criteria were provided to raters for category (table 1) and level of endorsement of AGW (table 2). Explicit endorsements were divided into non-quantified (e.g., humans are contributing to global warming without quantifying the contribution) and quantified (e.g., humans are contributing more than 50% of global warming, consistent with the 2007 IPCC statement that most of the global warming since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations). Table 1. Definitions of each type of research category. Category Description Example (1) Impacts Effects and impacts of climate change on the environment, ecosystems or humanity '...global climate change together with increasing direct impacts of human activities, such as fisheries, are affecting the population dynamics of marine top predators' (2) Methods Focus on measurements and modeling methods, or basic climate science not included in the other categories 'This paper focuses on automating the task of estimating Polar ice thickness from airborne radar data...' (3) Mitigation Research into lowering CO2 emissions or atmospheric CO2 levels 'This paper presents a new approach for a nationally appropriate mitigation actions framework that can unlock the huge potential for greenhouse gas mitigation in dispersed energy end-use sectors in developing countries' (4) Not climate-related Social science, education, research about people's views on climate 'This paper discusses the use of multimedia techniques and augmented reality tools to bring across the risks of global climate change' (5) Opinion Not peer-reviewed articles 'While the world argues about reducing global warming, chemical engineers are getting on with the technology. Charles Butcher has been finding out how to remove carbon dioxide from flue gas' (6) Paleoclimate Examining climate during pre-industrial times 'Here, we present a pollen-based quantitative temperature reconstruction from the midlatitudes of Australia that spans the last 135 000 years...' Table 2. Definitions of each level of endorsement of AGW. Level of endorsement Description Example (1) Explicit endorsement with quantification Explicitly states that humans are the primary cause of recent global warming 'The global warming during the 20th century is caused mainly by increasing greenhouse gas concentration especially since the late 1980s' (2) Explicit endorsement without quantification Explicitly states humans are causing global warming or refers to anthropogenic global warming/climate change as a known fact 'Emissions of a broad range of greenhouse gases of varying lifetimes contribute to global climate change' (3) Implicit endorsement Implies humans are causing global warming. E.g., research assumes greenhouse gas emissions cause warming without explicitly stating humans are the cause '...carbon sequestration in soil is important for mitigating global climate change' (4a) No position Does not address or mention the cause of global warming (4b) Uncertain Expresses position that human's role on recent global warming is uncertain/undefined 'While the extent of human-induced global warming is inconclusive...' (5) Implicit rejection Implies humans have had a minimal impact on global warming without saying so explicitly E.g., proposing a natural mechanism is the main cause of global warming '...anywhere from a major portion to all of the warming of the 20th century could plausibly result from natural causes according to these results' (6) Explicit rejection without quantification Explicitly minimizes or rejects that humans are causing global warming '...the global temperature record provides little support for the catastrophic view of the greenhouse effect' (7) Explicit rejection with quantification Explicitly states that humans are causing less than half of global warming 'The human contribution to the CO2 content in the atmosphere and the increase in temperature is negligible in comparison with other sources of carbon dioxide emission' Abstracts were randomly distributed via a web-based system to raters with only the title and abstract visible. All other information such as author names and affiliations, journal and publishing date were hidden. Each abstract was categorized by two independent, anonymized raters. A team of 12 individuals completed 97.4% (23 061) of the ratings; an additional 12 contributed the remaining 2.6% (607). Initially, 27% of category ratings and 33% of endorsement ratings disagreed. Raters were then allowed to compare and justify or update their rating through the web system, while maintaining anonymity. Following this, 11% of category ratings and 16% of endorsement ratings disagreed; these were then resolved by a third party. Upon completion of the final ratings, a random sample of 1000 'No Position' category abstracts were re-examined to differentiate those that did not express an opinion from those that take the position that the cause of GW is uncertain. An 'Uncertain' abstract explicitly states that the cause of global warming is not yet determined (e.g., '...the extent of human-induced global warming is inconclusive...') while a 'No Position' abstract makes no statement on AGW. To complement the abstract analysis, email addresses for 8547 authors were collected, typically from the corresponding author and/or first author. For each year, email addresses were obtained for at least 60% of papers. Authors were emailed an invitation to participate in a survey in which they rated their own published papers (the entire content of the article, not just the abstract) with the same criteria as used by the independent rating team. Details of the survey text are provided in the supplementary information (available at stacks.iop.org/ERL/8/024024/mmedia). 3. Results The ISI search generated 12 465 papers. Eliminating papers that were not peer-reviewed (186), not climate-related (288) or without an abstract (47) reduced the analysis to 11 944 papers written by 29 083 authors and published in 1980 journals. To simplify the analysis, ratings were consolidated into three groups: endorsements (including implicit and explicit; categories 1–3 in table 2), no position (category 4) and rejections (including implicit and explicit; categories 5–7). We examined four metrics to quantify the level of endorsement: (1) The percentage of endorsements/rejections/undecideds among all abstracts. (2) The percentage of endorsements/rejections/undecideds among only those abstracts expressing a position on AGW. (3) The percentage of scientists authoring endorsement/ rejection abstracts among all scientists. (4) The same percentage among only those scientists who expressed a position on AGW (table 3). Table 3. Abstract ratings for each level of endorsement, shown as percentage and total number of papers. Position % of all abstracts % among abstracts with AGW position (%) % of all authors % among authors with AGW position (%) Endorse AGW 32.6% (3896) 97.1 34.8% (10 188) 98.4 No AGW position 66.4% (7930) — 64.6% (18 930) — Reject AGW 0.7% (78) 1.9 0.4% (124) 1.2 Uncertain on AGW 0.3% (40) 1.0 0.2% (44) 0.4 3.1. Endorsement percentages from abstract ratings Among abstracts that expressed a position on AGW, 97.1% endorsed the scientific consensus. Among scientists who expressed a position on AGW in their abstract, 98.4% endorsed the consensus. The time series of each level of endorsement of the consensus on AGW was analyzed in terms of the number of abstracts (figure 1(a)) and the percentage of abstracts (figure 1(b)). Over time, the no position percentage has increased (simple linear regression trend 0.87% ± 0.28% yr−1, 95% CI, R2 = 0.66,p < 0.001) and the percentage of papers taking a position on AGW has equally decreased. Reset Figure 1. (a) Total number of abstracts categorized into endorsement, rejection and no position. (b) Percentage of endorsement, rejection and no position/undecided abstracts. Uncertain comprise 0.5% of no position abstracts. Export PowerPoint slide Download figure: Standard (154 KB)High-resolution (248 KB) The average numbers of authors per endorsement abstract (3.4) and per no position abstract (3.6) are both significantly larger than the average number of authors per rejection abstract (2.0). The scientists originated from 91 countries (identified by email address) with the highest representation from the USA (N = 2548) followed by the United Kingdom (N = 546), Germany (N = 404) and Japan (N = 379) (see supplementary table S1 for full list, available at stacks.iop.org/ERL/8/024024/mmedia). 3.2. Endorsement percentages from self-ratings We emailed 8547 authors an invitation to rate their own papers and received 1200 responses (a 14% response rate). After excluding papers that were not peer-reviewed, not climate-related or had no abstract, 2142 papers received self-ratings from 1189 authors. The self-rated levels of endorsement are shown in table 4. Among self-rated papers that stated a position on AGW, 97.2% endorsed the consensus. Among self-rated papers not expressing a position on AGW in the abstract, 53.8% were self-rated as endorsing the consensus. Among respondents who authored a paper expressing a view on AGW, 96.4% endorsed the consensus. Table 4. Self-ratings for each level of endorsement, shown as percentage and total number of papers. Position % of all papers % among papers with AGW position (%) % of respondents % among respondents with AGW position (%) Endorse AGWa 62.7% (1342) 97.2 62.7% (746) 96.4 No AGW positionb 35.5% (761) — 34.9% (415) — Reject AGWc 1.8% (39) 2.8 2.4% (28) 3.6 aSelf-rated papers that endorse AGW have an average endorsement rating less than 4 (1 =explicit endorsement with quantification, 7 = explicit rejection with quantification). bUndecided self-rated papers have an average rating equal to 4. cRejection self-rated papers have an average rating greater than 4. Figure 2(a) shows the level of self-rated endorsement in terms of number of abstracts (the corollary to figure 1(a)) and figure 2(b) shows the percentage of abstracts (the corollary to figure 1(b)). The percentage of self-rated rejection papers decreased (simple linear regression trend −0.25% ± 0.18% yr−1, 95% CI, R2 = 0.28,p = 0.01, figure 2(b)). The time series of self-rated no position and consensus endorsement papers both show no clear trend over time. Reset Figure 2. (a) Total number of endorsement, rejection and no position papers as self-rated by authors. Year is the published year of each self-rated paper. (b) Percentage of self-rated endorsement, rejection and no position papers. Export PowerPoint slide Download figure: Standard (149 KB)High-resolution (238 KB) A direct comparison of abstract rating versus self-rating endorsement levels for the 2142 papers that received a self-rating is shown in table 5. More than half of the abstracts that we rated as 'No Position' or 'Undecided' were rated 'Endorse AGW' by the paper's authors. Table 5. Comparison of our abstract rating to self-rating for papers that received self-ratings. Position Abstract rating Self-rating Endorse AGW 791 (36.9%) 1342 (62.7%) No AGW position or undecided 1339 (62.5%) 761 (35.5%) Reject AGW 12 (0.6%) 39 (1.8%) Figure 3 compares the percentage of papers endorsing the scientific consensus among all papers that express a position endorsing or rejecting the consensus. The year-to-year variability is larger in the self-ratings than in the abstract ratings due to the smaller sample sizes in the early 1990s. The percentage of AGW endorsements for both self-rating and abstract-rated papers increase marginally over time (simple linear regression trends 0.10 ± 0.09% yr−1, 95% CI, R2 = 0.20,p = 0.04 for abstracts, 0.35 ± 0.26% yr−1, 95% CI, R2 = 0.26,p = 0.02 for self-ratings), with both series approaching approximately 98% endorsements in 2011. Reset Figure 3. Percentage of papers endorsing the consensus among only papers that express a position endorsing or rejecting the consensus. Export PowerPoint slide Download figure: Standard (83 KB)High-resolution (128 KB) 4. Discussion Of note is the large proportion of abstracts that state no position on AGW. This result is expected in consensus situations where scientists '...generally focus their discussions on questions that are still disputed or unanswered rather than on matters about which everyone agrees' (Oreskes 2007, p 72). This explanation is also consistent with a description of consensus as a 'spiral trajectory' in which 'initially intense contestation generates rapid settlement and induces a spiral of new questions' (Shwed and Bearman 2010); the fundamental science of AGW is no longer controversial among the publishing science community and the remaining debate in the field has moved to other topics. This is supported by the fact that more than half of the self-rated endorsement papers did not express a position on AGW in their abstracts. The self-ratings by the papers' authors provide insight into the nature of the scientific consensus amongst publishing scientists. For both self-ratings and our abstract ratings, the percentage of endorsements among papers expressing a position on AGW marginally increased over time, consistent with Bray (2010) in finding a strengthening consensus. 4.1. Sources of uncertainty The process of determining the level of consensus in the peer-reviewed literature contains several sources of uncertainty, including the representativeness of the sample, lack of clarity in the abstracts and subjectivity in rating the abstracts. We address the issue of representativeness by selecting the largest sample to date for this type of literature analysis. Nevertheless, 11 944 papers is only a fraction of the climate literature. A Web of Science search for 'climate change' over the same period yields 43 548 papers, while a search for 'climate' yields 128 440 papers. The crowd-sourcing techniques employed in this analysis could be expanded to include more papers. This could facilitate an approach approximating the methods of Doran and Zimmerman (2009), which measured the level of scientific consensus for varying degrees of expertise in climate science. A similar approach could analyze the level of consensus among climate papers depending on their relevance to the attribution of GW. Another potential area of uncertainty involved the text of the abstracts themselves. In some cases, ambiguous language made it difficult to ascertain the intended meaning of the authors. Naturally, a short abstract could not be expected to communicate all the details of the full paper. The implementation of the author self-rating process allowed us to look beyond the abstract. A comparison between self-ratings and abstract ratings revealed that categorization based on the abstract alone underestimates the percentage of papers taking a position on AGW. Lastly, some subjectivity is inherent in the abstract rating process. While criteria for determining ratings were defined prior to the rating period, some clarifications and amendments were required as specific situations presented themselves. Two sources of rating bias can be cited: first, given that the raters themselves endorsed the scientific consensus on AGW, they may have been more likely to classify papers as sharing that endorsement. Second, scientific reticence (Hansen 2007) or 'erring on the side of least drama' (ESLD; Brysse et al 2012) may have exerted an opposite effect by biasing raters towards a 'no position' classification. These sources of bias were partially addressed by the use of multiple independent raters and by comparing abstract rating results to author self-ratings. A comparison of author ratings of the full papers and abstract ratings reveals a bias toward an under-counting of endorsement papers in the abstract ratings (mean difference 0.6 in units of endorsement level). This mitigated concerns about rater subjectivity, but suggests that scientific reticence and ESLD remain possible biases in the abstract ratings process. The potential impact of initial rating disagreements was also calculated and found to have minimal impact on the level of consensus (see supplemental information, section S1 available at stacks.iop.org/ERL/8/024024/mmedia). 4.2. Comparisons with previous studies Our sample encompasses those surveyed by Oreskes (2004) and Schulte (2008) and we can therefore directly compare the results. Oreskes (2004) analyzed 928 papers from 1993 to 2003. Over the same period, we found 932 papers matching the search phrase 'global climate change' (papers continue to be added to the ISI database). From that subset we eliminated 38 papers that were not peer-reviewed, climate-related or had no abstract. Of the remaining 894, none rejected the consensus, consistent with Oreskes' result. Oreskes determined that 75% of papers endorsed the consensus, based on the assumption that mitigation and impact papers implicitly endorse the consensus. By comparison, we found that 28% of the 894 abstracts endorsed AGW while 72% expressed no position. Among the 71 papers that received self-ratings from authors, 69% endorse AGW, comparable to Oreskes' estimate of 75% endorsements. An analysis of 539 'global climate change' abstracts from the Web of Science database over January 2004 to mid-February 2007 found 45% endorsement and 6% rejection (Schulte 2008). Our analysis over a similar period (including all of February 2007) produced 529 papers—the reason for this discrepancy is unclear as Schulte's exact methodology is not provided. Schulte estimated a higher percentage of endorsements and rejections, possibly because the strict methodology we adopted led to a greater number of 'No Position' abstracts. Schulte also found a significantly greater number of rejection papers, including 6 explicit rejections compared to our 0 explicit rejections. See the supplementary information (available at stacks.iop.org/ERL/8/024024/mmedia) for a tabulated comparison of results. Among 58 self-rated papers, only one (1.7%) rejected AGW in this sample. Over the period of January 2004 to February 2007, among 'global climate change' papers that state a position on AGW, we found 97% endorsements. 5. Conclusion The public perception of a scientific consensus on AGW is a necessary element in public support for climate policy (Ding et al 2011). However, there is a significant gap between public perception and reality, with 57% of the US public either disagreeing or unaware that scientists overwhelmingly agree that the earth is warming due to human activity (Pew 2012). Contributing to this 'consensus gap' are campaigns designed to confuse the public about the level of agreement among climate scientists. In 1991, Western Fuels Association conducted a $510 000 campaign whose primary goal was to 'reposition global warming as theory (not fact)'. A key strategy involved constructing the impression of active scientific debate using dissenting scientists as spokesmen (Oreskes 2010). The situation is exacerbated by media treatment of the climate issue, where the normative practice of providing opposing sides with equal attention has allowed a vocal minority to have their views amplified (Boykoff and Boykoff 2004). While there are indications that the situation has improved in the UK and USA prestige press (Boykoff 2007), the UK tabloid press showed no indication of improvement from 2000 to 2006 (Boykoff and Mansfield 2008). The narrative presented by some dissenters is that the scientific consensus is '...on the point of collapse' (Oddie 2012) while '...the number of scientific "heretics" is growing with each passing year' (Allègre et al 2012). A systematic, comprehensive review of the literature provides quantitative evidence countering this assertion. The number of papers rejecting AGW is a miniscule proportion of the published research, with the percentage slightly decreasing over time. Among papers expressing a position on AGW, an overwhelming percentage (97.2% based on self-ratings, 97.1% based on abstract ratings) endorses the scientific consensus on AGW.

Causes extinction—4 degree projections trigger a laundry list of extinction scenarios

Roberts 13—citing the World Bank Review’s compilation of climate studies

- 4 degree projected warming, can’t adapt

- heat wave related deaths, forest fires, crop production, water wars, ocean acidity, sea level rise, climate migrants, biodiversity loss

David, “If you aren’t alarmed about climate, you aren’t paying attention” [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/] January 10 //mtc

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent World Bank review of the science reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6 degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

## Plan Text

The United States Supreme Court should restrict presidential war powers authority by overruling the D.C. Circuit Al-Maqaleh v. Gates decision.

## Solvency

SCOTUS ruling key to domestic and international spill over

Chesney ’11 (Robert M – UT Law School) “Who May Be Held? Military Detention Through the Habeas Lens” http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3161&context=bclr

First, the answers judges give to this question have spillover effects beyond the immediate context of habeas.29 They overhang any other detention operations conducted under the rubric of the same underlying detention authority, regardless of whether those operations are subject to judicial review; government and military lawyers will not simply ignore judicial pronouncements regarding the scope of that authority, and may be expected to advise commanders and policymakers accordingly.30 By the same token, judicial decisions regarding the notional scope of detention authority may be applied to questions of targeting with lethal force in the field pursuant to that same authority, notwithstanding that targeting decisions ordinarily are not directly subject to judicial review.31 Future conflicts unrelated to 9/11 may also be impacted because many of the habeas decisions have included interpretations of key terms and concepts from both international and domestic law—such as “direct participation in hostilities” (“DPH”) and “all necessary and appropriate force” —that will be relevant in most if not all future armed conflicts.32 The judges involved in the habeas litigation have thus become, for better or worse, the central U.S. government institution engaged in the critical—and ultimately unavoidable—task of tailoring the laws governing military activity to suit the increasingly important scenario in which states classify clandestine non-state actors as strategic threats requiring a military response. In addition, the detention-scope question will remain relevant well into the future because the habeas litigation story—as it relates to this question—functions as a case study in the dynamic relationship between law and strategic context.33 More specifically, habeas litigation exemplifies two significant trends in the legal regulation of hostilities, one that is somewhat familiar and one that is somewhat novel.34 The first and somewhat-familiar trend involves the increasing significance of national courts in developing the international laws of war (at a time when the prospects for revisions to foundational treaties, such as the Geneva Conventions, are exceedingly slim, and when the role of international courts remains constrained).35 The second and more novel trend involves the emergence of domestic law as a rival to the international laws of war in the context of extraterritorial conflict (at a time when most scholarly attention focuses instead on the rivalry between the laws of war and international human rights law).36 From this point of view, the habeas litigation may herald increasing fragmentation of the law relating to hostilities—and, for good or ill, more occasions for national courts to grapple with the consequences.

It’s the only way to influence future US policy

Elsea & Garcia ’12 (Jennifer & Michael – legislative attorneys) “Judicial Activity Concerning

 Enemy Combatant Detainees: Major Court Rulings” http://www.fas.org/sgp/crs/natsec/R41156.pdf

Although the political branches of government have been primarily responsible for shaping U.S. wartime detention policy in the conflict with Al Qaeda and the Taliban, the judiciary has also played a significant role in clarifying elements of the rights and privileges owed to detainees under the Constitution and existing federal statutes and treaties. These rulings may have longterm consequences for U.S. detention policy, both in the conflict with Al Qaeda and the Taliban and in future armed conflicts. Judicial decisions concerning the meaning and effect of existing statutes and treaties may compel the executive branch to modify its current practices to conform with judicial opinion. For example, judicial opinions concerning the scope of detention authority conferred by the AUMF may inform executive decisions as to whether grounds exist to detain an individual suspected of involvement with Al Qaeda or the Taliban. Judicial decisions concerning statutes applicable to criminal prosecutions in Article III courts or military tribunals may influence executive determinations as to the appropriate forum in which to try detainees for criminal offenses. Judicial rulings may also invite response from the legislative branch, including consideration of legislative proposals to modify existing authorities governing U.S. detention policy. The 2012 NDAA, for example, contains provisions which arguably codify aspects of existing jurisprudence regarding U.S. authority to detain persons in the conflict with Al Qaeda. Judicial activity with respect to the present armed conflict may also influence legislative activity in future hostilities. For example, Congress may look to judicial rulings interpreting the meaning and scope of the 2001 AUMF for guidance when drafting legislation authorizing the executive to use military force in some future conflict. While the Supreme Court has issued definitive rulings concerning certain issues related to wartime detainees, many other issues related to the capture, treatment, and trial of suspected enemy belligerents are either the subject of ongoing litigation or are likely to be addressed by the judiciary. Accordingly, the courts appear likely to play a significant role in shaping U.S. policies relating to enemy belligerents in the foreseeable future.

Failure to articulate habeas standards for lower court judges makes indefinite detention inevitable and triggers your disads

Sparrow 11 (Indefinite Detention After Boumediene: Judicial Trailblazing in Uncharted and Unfamiliar Territory SUFFOLK UNIVERSITY LAW REVIEW [Vol. XLIV:261 p lexis Tyler Sparrow is an associate in the Securities Department, and a member of the Litigation and Enforcement Practice Group]

This section will argue that the current guidance on detainee habeas corpus actions offered by the Supreme Court as well as the Executive and Legislative branches is vague and inadequate.100 Because of this inadequacy, federal district court judges cannot proceed with any confidence that their judgments will stand, nor can the litigants form any reasonable predictions from the case law.101 This section will then examine how more definitive Supreme Court precedent would help to unify the case law dealing with detainee habeas corpus actions.102 Finally, this section will argue that adoption of legislation clearly addressing the substantive scope of the government’s detention authority would clarify the law for the public, the federal courts, and most importantly those detained without charge.103 The Supreme Court’s holding in Boumediene was limited to the constitutional issues regarding Guantanamo detainees’ access to the writ of habeas corpus, leaving all questions of procedure and substantive scope-ofdetention authority to the lower federal courts.104 This lack of guidance has drawn criticism from legal scholars and federal judges alike.105 A group of noted legal scholars observed that, in holding Guantanamo detainees were entitled to seek the writ of habeas corpus, the Supreme Court “gave only the barest sketch of what such proceedings should look like, leaving a raft of questions open for the district and appellate court judges.”106 Furthermore, the Obama Administration has stated that it will not seek further legislation from Congress to justify or clarify its detention authority.107 This lack of guidance has led to disparate results in detainee habeas corpus actions with similar facts, based not on the merits of the cases, but rather on which particular judge hears the petition.108 B. Need for Supreme Court Precedent Addressing Standards and Procedure for Detainee Habeas Corpus Actions The Supreme Court’s refusal to address the substantive scope of the government’s detention authority in Boumediene has left the task to federal district court judges, who are free to apply whichever standard they see fit, regardless of its disparity from the standard being applied down the hall of the very same courthouse.109 For instance, it is up to the district judges whether to analyze detention authority under the rubric of “substantial support” for the Taliban and/or Al Qaeda, or the rubric pertaining to being a “part of” either of these groups.110 There are also differing opinions as to when, and how long, a detainee’s relationship with the Taliban and/or Al Qaeda must have existed to justify detention, under either the “part of” or “substantial support” rationales.111 Differing judicial approaches can also be seen in the weight of evidence required to justify detention, as well as how to treat hearsay and evidence obtained in the face of coercion.112 This creates a situation where neither the government nor the detainee “can be sure of the rules of the road in the ongoing litigation, and the prospect that allocation of a case to a particular judge may prove dispositive on the merits can cut in either direction.”113 The Supreme Court has the opportunity to unify these divergent paths by finally ruling on questions such as the substantive scope of the government’s detention authority, the standard and weight of evidence required for continued detention, whether a relationship with the Taliban and/or Al Qaeda can be sufficiently vitiated, and the reliability of hearsay evidence and statements made under coercion.114

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## Case

Reality exists and failure to recognize that undermines their agenda

Sokal, 1996 (Alan, professor of physics at New York University, “A Physicist Experiments with cultural Studies,” June 5, http://www.physics.nyu.edu/faculty/sokal/lingua\_franca\_v4/lingua\_franca\_v4.html)

Why did I do it? While my method was satirical, my motivation is utterly serious. **What concerns me is** the proliferation, not just of nonsense and sloppy thinking per se, but of a particular **kind of nonsense** and sloppy thinking: one **that denies the existence of objective realities**, or (when challenged) admits their existence but downplays their practical relevance. At its best, a journal like Social Textraises important questions that no scientist should ignore -- questions, for example, about how corporate and government funding influence scientific work. Unfortunately, epistemic relativism does little to further the discussion of these matters. In short, my concern over the spread of subjectivist thinking is both intellectual and political. Intellectually, the problem with such doctrines is that they are false (when not simply meaningless). **There is a real world; its properties are not merely social constructions; facts and evidence domatter**. What sane person would contend otherwise? And yet, much contemporary academic theorizing consists precisely of attempts to blur these obvious truths -- the utter absurdity of it all being concealed through obscure and pretentious language. Social Text's acceptance of my article exemplifies the intellectual arrogance of Theory -- meaning postmodernist literarytheory -- carried to its logical extreme. No wonder they didn't bother to consult a physicist. If all is discourse and ``text,'' then knowledge of the real world is superfluous; even physics becomes just another branch of Cultural Studies. **If**, moreover, **all is rhetoric** and ``language games,'' **then internal logical consistency is superfluous too: a patina of theoretical sophistication serves equally well. Incomprehensibility becomes a virtue; allusions, metaphors and puns substitute for evidence and logic**. My own article is, if anything, an extremely modest example of this well-established genre. Politically, I'm angered because most (though not all) of this silliness is emanating from the self-proclaimed Left. We're witnessing here a profound historical volte-face. For most of the past two centuries, the Left has been identified with science and against obscurantism; we have believed that rational thought and the fearless analysis of objective reality (both natural and social) are incisive tools for combating the mystifications promoted by the powerful -- not to mention being desirable human ends in their own right. **The recent turn of** many ``progressive'' or ``leftist'' academic humanists and **social scientists toward** one or another form of **epistemic relativism** betrays this worthy heritage and **undermines the** already **fragile prospects for progressive social critique. Theorizing about ``the social construction of reality'' won't help us find an effective treatment for AIDS or devise strategies for preventing global warming. Nor can we combat false ideas in history, sociology, economics and politics** if we reject the notions of truth and falsity. The results of my little experiment demonstrate, at the very least, that some fashionable sectors of the American academic Left have been getting intellectually lazy. The editors of Social Textliked my article because they liked its conclusion: that ``the content and methodology of postmodern science provide powerful intellectual support for the progressive political project.'' They apparently felt no need to analyze the quality of the evidence, the cogency of the arguments, or even the relevance of the arguments to the purported conclusion.

Language doesn’t shape reality – people don’t think in language, concepts are remembered not wording

Pinker, 2002

Steven, phD from Harvard in experimental psychology, director of the Center for Cognitive Neuroscience at MIT, Johnstone Family Professor of Psychology at Harvard, The Blank Slate: The Modern Denial of Human Nature”, p. 210-211

Why do virtually all cognitive scientists and linguists believe that language is not a prisonhouse of thought?34 First, many experiments have plumbed the minds of creatures without language, such as infants and nonhuman pri**­**mates, and have found the fundamental categories of thought working away: objects, space, cause and effect, number, probability, agency (the initiation of behavior by a person or animal), and the functions of tools." Second, our vast storehouse of knowledge is certainly not couched in the words and sentences in which we learned the individual facts. What did you read in the page before this one? I would like to think that you can give a rea**­**sonably accurate answer to the question. Now try to write down the exact words you read in those pages. Chances are you cannot recall a single sentence verbatim, probably not even a single phrase. What you remembered is the gist of those passages—their content, meaning, or sense—not the language itself. Many experiments on human memory have confirmed thatwhat we remem**­**ber over the long term is the content, not the wording, of stories and conver­sations. Cognitive scientists model this "semantic memory" as a web of logical propositions, images, motor programs, strings of sounds, and other data structures connected to one another in the brain.36 A third way to put language in its place is to think about how we use it. Writing and speaking do not consist of transcribing an interior monologue onto paper or playing it into a microphone. Rather, we engage in a constant give-and-take between the thoughts we try to convey and the means our lan**­**guage offers to convey them. We often grope for words, are dissatisfied with what we write because it does not express what we wanted to say, or discover when every combination of words seems wrong that we do not really know what we want to say. And when we get frustrated by a mismatch between our language and our thoughts, we don't give up, defeated and mum, but change the language. We concoct neologisms (quark, meme, clone, deep structure), in**­**vent slang (to spurn, to diss, to flame, to surf the web, a spin doctor), borrow use**­**ful words from other languages (joie de vivre, schlemiel, angst, machismo), or coin new metaphors (waste time, vote with your feet, push the outside of the en­velope). That is why every language, far from being an immutable penitentiary, is constantly under renovation. Despite the lamentations of language lovers and the coercion of tongue troopers, languages change unstoppably as people need to talk about new things or convey new attitudes.37 Finally, language itself could not function if it did not sit atop a vast infra**­**structure of tacit knowledge about the world and about the intentions of other people. When we understand language, we have to listen between the lines to winnow out the unintended readings of an ambiguous sentence, piece together fractured utterances, glide over slips of the tongue, and fill in the count**­**less unsaid steps in a complete train of thought. When the shampoo bottle says "Lather, rinse, repeat," we don't spend the rest of our lives in the shower; we infer that it means "repeat once." And we know how to interpret ambiguous headlines such as "Kids Make Nutritious Snacks,""Prostitutes Appeal to Pope," and "British Left Waffles on Falkland Islands," because we effortlessly apply our background knowledge about the kinds of things that people are likely to convey in newspapers. Indeed, the very existence of ambiguous sentences, in which one string of words expresses two thoughts, proves that thoughts are not the same thing as strings of words.

Collapse of empires guarantees transion wars and empires can prevent war

Lal, 2004 (Deepak, James s. Coleman Professor of International Development Studies at UCLA, In Praise of Empires, pp. XXII-XXIV)

Empires, which for our purposes can be defined as "multi-ethnic con­glomerates held together by transnational organizational and cultural ties,"5 have historically both maintained peace and promoted prosperity for a simple reason. The centers of the ancient civilizations in Eurasia—where sedentary agriculture could be practiced and yielded a surplus to feed the towns (civi­tas, the emblem of civilization)—were bordered north and south by areas of nomadic pastoralism: the steppes of the north and the semidesert of the Arabian peninsula to the south. In these regions the inhabitants had kept up many of the warlike traditions of our hunter-gatherer ancestors and were prone to prey upon the sedentary inhabitants of the plains. At times they attempted to convert them into chattel like their cattle.' Thus, the provision of a classical public good—protecting citizens from invaders—required the extension of territory to some natural barriers which could keep the barbar­ians at bay. The Roman, Chinese, and various Indian empires were partly created to provide this Pax, to protect their labor intensive and sedentary forms of making a living. The Pax of various empires has thus been essential in providing one of the basic public goods required for prosperity. A simple thought experiment will help to show that in the past, despite nationalist rhetoric, an imperial Pax has usually succeeded in providing the essential public good of order. Consider an ordinary citizen of any ethnic and religious origin of either of the two supposedly benighted nineteenth-century empires extinguished by President Woodrow Wilson at Versailles: the Austro-Hungarian and the Ottoman. He in turn is considering the likelihood of his grandchildren living, surviving, and passing on their property to their children. Now consider a similar citizen of the postimperial successor states during the last century contemplating the same prospect. There can be no doubt of the great deterioration in life chances that has befallen the average citizen of the successor states. The situation in many ways is of course even worse in Africa with its millions of refugees and ethnic slaughter, even by comparison with the inhuman and brutal regime of Leopold's Belgian empire in the Congo. **In many parts of the postimperial world, the main ben**­**eficiaries of the Age of Nations have been the nationalist predatory elites who have failed to provide even the most elemental of public goods**—law and order—required for human thriving.? The decline of empires was followed by both domestic disorder and a disintegration of the enlarged economic spaces they had created.' Thus, the Roman empire had through its Pax brought unprecedented prosperity to the inhabitants of the Mediterranean littoral for nearly a millennium. With its demise, the ensuing disorder and the destruction of the imperial economic space led to a marked fall in the standards of living of the common people inhabiting the fallen empire. As Samuel Finer notes: "If a peasant family in Gaul, or Spain, or northern Italy had been able to foresee the misery and exploitation that was to befall his grandchildren and their grandchildren, on and on and on for the next 500 years, he would have been singularly spiritless—and witless too—if he had not rushed to the aid of the empire. And even then the kingdoms that did finally emerge after the year 1000 were poverty-stricken dung heaps compared with Rome. Not till the full Renaissance in the sixteenth century did Europeans begin to think of them­selves as in any ways comparable to Rome, and not till the 'Augustan Age' of the eighteenth century did they regard their civilization as its equal."9 Similarly, the periodic **collapse of Chinese empires led to periods of warlordism and widespread disorder**, until the Mandate of Heaven was passed on to another imperial dynasty which restored order. The Chinese have therefore always placed a very high value on the order provided by their successive empires. In our own times, the death of the nineteenth-century liberal economic order built by Pax Britannia on the fields of Flanders led to a near century of economic disintegration and disorder, because **the British were unable and the Americans were unwilling to maintain an imperial global Pax**. In this context it is worth considering another thought experiment. As we shall see, by the 1870s, the British economic ascendancy which had underwritten their imperial Pax was coming to an end with the rise of two major new industrial powers, the United States and Germany. **If the Americans had** then **joined** the British in creating an Anglo-American imperium to maintain the Pax, the terrible events of the last century could perhaps have been avoided. The joint industrial and military might of an Anglo-American imperium run, let us say, by the equivalent of a Lord Palmerston could have prevented the Kaiser's gamble to achieve mastery in Europe, and one of the most pointless wars—the First World War—could perhaps have been averted. **This** in turn **could have prevented the events that led to the rise of Hitler**. Similarly, **a joint Anglo-American imperium could perhaps have prevented the rise of the Bolsheviks**. In a sense therefore, the rise of the two illiberal creeds—fascism and communism—which have blighted the lives of millions could perhaps have been prevented if, by the end of the nineteenth-century, the United States had taken over (in partner­ship) Britain's imperial role. Instead, Woodrow Wilson at Versailles destroyed the Age of Empire and, with the United States retreating into iso­lationism, left global disorder and economic disintegration to rule for nearly a century during the Age of Nations. **With the realization of the consequences of its failure to maintain an imperial Pax to promote peace and prosperity, the United States since the Second World War has** at first surreptitiously, and since 9/11 more openly, **taken on the imperial role**. It is only in the last decade, with the defeat of the second of the illiberal creeds which ran riot in the last century and the undisputed emergence of the United States as the world hegemon, that the twentieth-century's global disorder and economic disintegration is coming to be reversed. But is the United States willing and able to maintain its Pax, which could underwrite the resurrection of another LIEO like that of the British in the nineteenth century? And if it is not, what are the likely conse­quences? What form of U.S. empire is likely to be sustainable and to pro­mote the order required for the benign processes of globalization to work? Are the antiglobalization arguments of various activists of a self-proclaimed international civil society valid? Should the U.S. imperium promote democ­racy around the world? These are the central questions I want to raise in this book, but I hope I have said enough already to emphasize that globalization cannot be understood without understanding empires.

## Race

Violence can be found in the law without the law being violent.

Jean-Philippe Deranty 4, Professor of French and German Philosophy at Macquarie University, online: http://www.borderlandsejournal.adelaide.edu.au/vol3no1\_2004/deranty\_agambnschall.htm

28. All this explains why Agamben chooses to focus on the decisionistic tradition (Hobbes, Heidegger, Schmitt). With it, he wants to isolate the pure essences of all juridical orders and thus highlight the essential violence structuring traditional politics. Since the law essentially appears as a production and capture of bare life, the political order that enunciates and maintains the law is essentially violent, always threatening the bare life it has produced with total annihilation. Auschwitz is the real outcome of all normative orders. 29. The problem with this strategic use of the decisionistic tradition is that it does not do justice to the complex relationship that these authors establish between violence and normativity, that is, in the end the very normative nature of their theories. In brief, they are not saying that all law is violent, in essence or in its core, rather that law is dependent upon a form of violence for its foundation. Violence can found the law, without the law itself being violent. In Hobbes, the social contract, despite the absolute nature of the sovereign it creates, also enables individual rights to flourish on the basis of the inalienable right to life (see Barret-Kriegel 2003: 86). 30. In Schmitt, the decision over the exception is indeed "more interesting than the regular case", but only because it makes the regular case possible. The "normal situation" matters more than the power to create it since it is its end (Schmitt 1985: 13). What Schmitt has in mind is not the indistinction between fact and law, or their intimate cohesion, to wit, their secrete indistinguishability, but the origin of the law, in the name of the law. This explains why the primacy given by Schmitt to the decision is accompanied by the recognition of popular sovereignty, since the decision is only the expression of an organic community. Decisionism for Schmitt is only a way of asserting the political value of the community as homogeneous whole, against liberal parliamentarianism. Also, the evolution of Schmitt’s thought is marked by the retreat of the decisionistic element, in favour of a strong form of institutionalism. This is because, if indeed the juridical order is totally dependent on the sovereign decision, then the latter can revoke it at any moment. Decisionism, as a theory about the origin of the law, leads to its own contradiction unless it is reintegrated in a theory of institutions (Kervégan 1992). 31. In other words, Agamben sees these authors as establishing a circularity of law and violence, when they want to emphasise the extra-juridical origin of the law, for the law’s sake. Equally, Savigny’s polemic against rationalism in legal theory, against Thibaut and his philosophical ally Hegel, does not amount to a recognition of the capture of life by the law, but aims at grounding the legal order in the very life of a people (Agamben 1998: 27). For Agamben, it seems, the origin and the essence of the law are synonymous, whereas the authors he relies on thought rather that the two were fundamentally different.

You shouldn't be afraid of the government, you should be afraid of the Tea Party.

Kotsko 13 - Phd, Assistant Professor of the Humanities at Shimer College (Adam, January 3rd, 2013, http://itself.wordpress.com/2013/01/03/fear-of-the-state/#comment-33613)

It has always puzzled me that some people can look at something like public provision of health insurance and see a fateful step toward tyranny and oppression. What this requires is a suspicion of “the state” simply as such, and it seems to me that Foucault was right to say that the greatest achievement of the early neoliberal theorists was to convince seemingly everyone in the world that the lesson to be drawn from the experience of “totalitarianism” is the dangers stemming from excessive state power. In fact, if there is anything to be gained by placing the Nazi and Soviet experiences under the same conceptual heading, it cannot be a lesson about the dangers of state power — indeed, it has to be just the opposite: the dangers of a weak and impotent state that cannot restrain the power of a para-state movement. Both the Nazis and the Bolsheviks ran roughshod over the state, so that the official state organs were largely subservient or irrelevant, respectively. Hitler’s power as “Führer” did not stem from his official position as German Chancellor, and indeed the entire strategy of his movement was to suspend the official political order as much as possible to create a space to exercise power without restraint. The pre-existing state in Russia was even weaker than the Weimar Republic, and Stalin was able to elevate what was originally the purely functional position of “party secretary” (i.e., the person who takes notes, just like I currently take notes in my capacity as “faculty secretary” at Shimer college) into a position of absolute power — and what ultimately broke the power of the Communist Party was Gorbachev’s decision to treat the “official” Soviet political institutions as more than empty formalities. (The contrast between the “lawless legalism” of right-wing strategy and the left-wing tendency to simply ignore “official” power structures and begin exercising power “directly” is an interesting one.) So if we’re to be on the watch for looming totalitarianism, it seems that we should be looking to movements that deride the official state apparatus and seek to “weaponize” every possible loophole and formality in order to advance their own goals. In American history, I’d say the closest thing to that model we have is the Jim Crow order that emerged in the South after the failure of Reconstruction — exploiting the weaknesses and gaps in federal power in order to clear out the space to effectively disenfranchise the black population and then control them through the continual threat of extra-legal terrorist violence and using any procedural means at their disposal to hamstring efforts to remedy the situation. (On the left, it seems like the only example you could even make an argument for is FDR.)

## Budhism

Changing the world is life celebration.

May 5 (Todd, Professor of Philosophy at Clemson University, September 2005, “To change the world, to celebrate life,” Philosophy & Social Criticism, Vol. 31, No. 5-6)

For those among us who seek in philosophy a way to grapple with our lives rather than to solve logical puzzles; for those whose reading and whose writing are not merely appropriate steps toward academic advancement but a struggle to see ourselves and our world in a fresher, clearer light; for those who find nourishment among impassioned ideas and go hungry among empty truths: there is a struggle that is often waged within us. It is a struggle that will be familiar to anyone who has heard in Foucault’s sentences the stammering of a fellow human being struggling to speak in words worth hearing. Why else would we read Foucault? We seek to conceive what is wrong in the world, to grasp it in a way that offers us the possibility for change. We know that there is much that is, to use Foucault’s word, ‘intolerable’. There is much that binds us to social and political arrangements that are oppressive, domineering, patronizing, and exploitative. We would like to understand why this is and how it happens, in order that we may prevent its continuance. In short, we want our theories to be tools for changing the world, for offering it a new face, or at least a new expression. There is struggle in this, struggle against ideas and ways of thinking that present themselves to us as inescapable. We know this struggle from Foucault’s writings. It is not clear that he ever wrote about anything else. But this is not the struggle I want to address here. For there is, on the other hand, another search and another goal. They lie not so much in the revisioning of this world as in the embrace of it. There is much to be celebrated in the lives we lead, or in those led by others, or in the unfolding of the world as it is, a world resonant with the rhythms of our voices and our movements. We would like to understand this, too, to grasp in thought the elusive beauty of our world. There is, after all, no other world, except, as Nietzsche taught, for those who would have created another one with which to denigrate our own. In short, we would like our thought to celebrate our lives. To change the world and to celebrate life. This, as the theologian Harvey Cox saw, is the struggle within us.1 It is a struggle in which one cannot choose sides; or better, a struggle in which one must choose both sides. The abandonment of one for the sake of the other can lead only to disaster or callousness. Forsaking the celebration of life for the sake of changing the world is the path of the sad revolutionary. In his preface to Anti-Oedipus, Foucault writes that one does not have to be sad in order to be revolutionary. The matter is more urgent than that, however. One cannot be both sad and revolutionary. Lacking a sense of the wondrous that is already here, among us, one who is bent upon changing the world can only become solemn or bitter. He or she is focused only on the future; the present is what is to be overcome. The vision of what is not but must come to be overwhelms all else, and the point of change itself becomes lost. The history of the left in the 20th century offers numerous examples of this, and the disaster that attends to it should be evident to all of us by now. The alternative is surely not to shift one’s allegiance to the pure celebration of life, although there are many who have chosen this path. It is at best blindness not to see the misery that envelops so many of our fellow humans, to say nothing of what happens to sentient nonhuman creatures. The attempt to jettison world-changing for an uncritical assent to the world as it is requires a self-deception that I assume would be anathema for those of us who have studied Foucault. Indeed, it is anathema for all of us who awaken each day to an America whose expansive boldness is matched only by an equally expansive disregard for those we place in harm’s way. This is the struggle, then. The one between the desire for life-celebration and the desire for world-changing. The struggle between reveling in the contingent and fragile joys that constitute our world and wresting it from its intolerability. I am sure it is a struggle that is not foreign to anyone who is reading this. I am sure as well that the stakes for choosing one side over another that I have recalled here are obvious to everyone. The question then becomes one of how to choose both sides at once.

we have to both accept the world and attempt to change it – the permutation is the best way to affirm life

May 5 – Todd, Clemson University, “To change the world, to celebrate life”, Philosophy Social Criticism 2005; 31; 517, sagepub

For those among us who seek in philosophy a way to grapple with our lives rather than to solve logical puzzles; for those whose reading and whose writing are not merely appropriate steps toward academic advancement but a struggle to see ourselves and our world in a fresher, clearer light; for those who find nourishment among impassioned ideas and go hungry among empty truths: there is a struggle that is often waged within us. It is a struggle that will be familiar to anyone who has heard in Foucault’s sentences the stammering of a fellow human being struggling to speak in words worth hearing. Why else would we read Foucault? We seek to conceive what is wrong in the world, to grasp it in a way that offers us the possibility for change. We know that there is much that is, to use Foucault’s word, ‘intolerable’. There is much that binds us to social and political arrangements that are oppressive, domineering, patronizing, and exploitative. We would like to understand why this is and how it happens, in order that we may prevent its continuance. In short, we want our theories to be tools for changing the world, for offering it a new face, or at least a new expression. There is struggle in this, struggle against ideas and ways of thinking that present themselves to us as inescapable. We know this struggle from Foucault’s writings. It is not clear that he ever wrote about anything else. But this is not the struggle I want to address here. For there is, on the other hand, another search and another goal. They lie not so much in the revisioning of this world as in the embrace of it. There is much to be celebrated in the lives we lead, or in those led by others, or in the unfolding of the world as it is, a world resonant with the rhythms of our voices and our movements. We would like to understand this, too, to grasp in thought the elusive beauty of our world. There is, after all, no other world, except, as Nietzsche taught, for those who would have created another one with which to denigrate our own. In short, we would like our thought to celebrate our lives. To change the world and to celebrate life. This, as the theologian Harvey Cox saw, is the struggle within us.1 It is a struggle in which one cannot choose sides; or better, a struggle in which one must choose both sides. The abandonment of one for the sake of the other can lead only to disaster or callousness. Forsaking the celebration of life for the sake of changing the world is the path of the sad revolutionary. In his preface to Anti-Oedipus, Foucault writes that one does not have to be sad in order to be revolutionary. The matter is more urgent than that, however. One cannot be both sad and revolutionary. Lacking a sense of the wondrous that is already here, among us, one who is bent upon changing the world can only become solemn or bitter. He or she is focused only on the future; the present is what is to be overcome. The vision of what is not but must come to be overwhelms all else, and the point of change itself becomes lost. The history of the left in the 20th century offers numerous examples of this, and the disaster that attends to it should be evident to all of us by now. The alternative is surely not to shift one’s allegiance to the pure celebration of life, although there are many who have chosen this path. It is at best blindness not to see the misery that envelops so many of our fellow humans, to say nothing of what happens to sentient nonhuman creatures. The attempt to jettison world-changing for an uncritical assent to the world as it is requires a self-deception that I assume would be anathema for those of us who have studied Foucault. Indeed, it is anathema for all of us who awaken each day to an America whose expansive boldness is matched only by an equally expansive disregard for those we place in harm’s way. This is the struggle, then. The one between the desire for life celebration and the desire for world-changing. The struggle between reveling in the contingent and fragile joys that constitute our world and wresting it from its intolerability. I am sure it is a struggle that is not foreign to anyone who is reading this. I am sure as well that the stakes for choosing one side over another that I have recalled here are obvious to everyone. The question then becomes one of how to choose both sides at once.

## Anthro

The complexity of higher life is what gives value to the entire universe

Russell, 2001 (Robert John, The Center for Theology and the Natural Sciences, the Graduate Theological Union, “Life in the Universe: Philosophical and theological issues,” published in *First Steps in the Origin of Life in the Universe,* http://www.ctnsstars.org/conferences/papers/russell.doc)

Some scientists have suggested that biological life per se has little significance whether or not we are alone in the universe. They see life as essentially meaningless, a random product of physics and chemistry of no more significance than the wetness of water or the structure of Saturn’s rings. Biological processes are just what matter does when really unusual conditions occur, but the universe, “at rock-bottom”, is just endless mass-energy and curving spacetime. Such ‘cosmic pessimism’ is of course a philosophical interpretation of nature; it is not science, per se, nor is it one which can be ‘proved’ by science, but it is one that has been widely propounded by eminent scientists such as Bertrand Russell10 and Jacques Monod11. It is certainly the impression Steven Weinberg gave in his often-quoted conclusion to The First Three Minutes: “(H)uman life is ... just a more-or-less farcical outcome of a chain of accidents reaching back to the first three minutes ...The more the universe seems comprehensible, the more it also seems pointless.”12 Others, though, disagree with this view, arguing instead for a philosophy in which life is a clue to the meaning of the universe. In Disturbing the Universe, Freeman Dyson writes: “I do not feel like an alien in this universe. The more I examine the universe and study the details of its architecture, the more evidence I find that the universe in some sense must have known that we were coming.” And in his 1985 Gifford Lectures, Infinite in All Directions, Dyson explicitly rejects Weinberg’s opinion, telling us instead he sees “...a universe growing without limit in richness and complexity, a universe of life surviving forever and making itself known to its neighbors across the unimaginable gulfs of space and time...Twentieth-century science provides a solid foundation for a philosophy of hope.”13 Writing in a similar vein, Paul Davies has depicted life in terms of “teleology without teleology”14 and William Stoeger has written about the “immanent directionality” of evolution.15 The difference in these views may stem in part from a further division between reductionist and non-reductionist philosophies. If one assumes that the processes and properties characteristic of living organisms can be fully explained by physics and chemistry, there may be little if any basis for attributing meaning and value to life. Non-reductionist arguments on the other hand, such as those deployed by Francisco Ayala16, Ernst Mayr17, and Charles Birch18, offer a basis within natural processes for attributing varying degrees of meaning and value to organisms with differing levels of complexity and organization. Non-reductionist epistemologies, in turn, play a crucial theological role in a variety of views often referred to collectively as ‘theistic evolution.’ This perspective includes two central themes: creatio ex nihilo and creatio continua. 1) God as transcendent creates the universe out of nothing (creatio ex nihilo), holding it in existence at each moment and maintaining its law-abiding character which we express scientifically as the laws of nature.19 2) God as immanent creates the universe continuously in time (creatio continua), working “in, with, under and through” the processes of nature20, as Arthur Peacocke nicely phrases it. Scientists and theologians have developed these themes in light of physical cosmology, quantum physics, chaos and complexity theory, evolutionary and molecular biology, anthropology, the neuro and cognitive sciences, etc.21 Most hold that the multi-leveled complexity of living organisms points to the intrinsic value of life. Arguably the most remarkable construction in the galaxy is the primate central nervous system. The number of connections between the neurons of the human brain is greater than the number of stars in the Milky Way. This staggering complexity makes possible the almost unimaginable feat of self-consciousness, of knowing oneself as a free, rational and moral agent in the world. Thus on our planet, at least, we are privileged to discover a hint of what God’s intentions might have been in creating a universe like ours, with its particular laws of physics. For when the evolutionary conditions are right as they have been on Earth, and as they may be elsewhere in our universe, God, the continuous, immanent, ongoing creator of all that is, working with and through nature, creates a species gifted with the “image of God” (the imago dei) including the capacities for reason, language, imagination, tool-making, social organization, and self-conscious moral choice, a species capable of entering into covenant with God and in turn with all of life. Thus if it took the precise characteristics of this universe to allow for the possibility of the evolution of life, even if life is scarce in the universe22, then it is life as such that gives significance to our universe --- and even if ours is only one of a countless series of universes, as some inflationary and quantum cosmologies depict23. In short, I see life as the enfleshing of God’s intentions amidst biological evolution which, in turn, is the ongoing expression of God’s purposes in creating all that is. God thus offers to nature nature’s conscious experience of the God who acts within nature.

The 1AC is based on a logical fallacy that what is natural is also good. These ethics derive their value judgments from factual claims about the nature of the universe. Specifically, the 1AC says that because humans are not materially distinct from other matter in the universe that all of existence must be equally valuable. Use of this argument is stupid and leads to absurd results

Pinker, 2002

Steven, phD from Harvard in experimental psychology, director of the Center for Cognitive Neuroscience at MIT, Johnstone Family Professor of Psychology at Harvard, The Blank Slate: The Modern Denial of Human Nature”, p. 164

Acknowledging the naturalistic fallacy does not mean that facts about human nature are irrelevant to our choices.12 The political scientist Roger Masters, noting that the naturalistic fallacy can be invoked too glibly to deny the relevance of biology to human affairs, points out, "When the physician says a patient ought to have an operation because the facts show appendicitis, the patient is unlikely to complain about a fallacious logical deduction."13 Ac­knowledging the naturalistic fallacy implies only that discoveries about human nature do not, by themselves, dictate our choices. The facts must be combined with a statement of values and a method of resolving conflicts among them. Given the fact of appendicitis, the value that health is desirable, and the conviction that the pain and expense of the operation are outweighed by the resulting gain in health, one ought to have the operation.

Their ethics are indistinct from the ethics of the blank slate – they will inevitably collapse and the 1ACs linkage makes maintaining their value system impossible

Pinker, 2002

Steven, phD from Harvard in experimental psychology, director of the Center for Cognitive Neuroscience at MIT, Johnstone Family Professor of Psychology at Harvard, The Blank Slate: The Modern Denial of Human Nature”, p. 141-142

THE GREATEST MORAL appeal of the doctrine of the Blank Slate comes from a simple mathematical fact: zero equals zero. This allows the Blank Slate to serve as a guarantor of political equality. Blank is blank, so if we are all blank slates, the reasoning goes, we must all be equal. But if the slate of a newborn is not blank, different babies could have different things inscribed on their slates. Individuals, sexes, classes, and races might differ innately in their talents, abil­ities, interests, and inclinations. And that, it is thought, could lead to three evils.

The first is prejudice: if groups of people are biologically different, it could be rational to discriminate against the members of some of the groups. The second is Social Darwinism: if differences among groups in their station in life—their income, status, and crime rate, for example—come from their in**­**nate constitutions, the differences cannot be blamed on discrimination, and that makes it easy to blame the victim and tolerate inequality. The third is eu**­**genics: if people differ biologically in ways that other people value or dislike, it would invite them to try to improve society by intervening biologically—by encouraging or discouraging people's decisions to have children, by taking that decision out of their hands, or by killing them outright. The Nazis carried out the "final solution" because they thought Jews and other ethnic groups were biologically inferior. The fear of the terrible consequences that might arise from a discovery of innate differences has thus led many intellectuals to insist that such differences do not exist—or even that human nature does not exist, because if it did, innate differences would be possible. I hope that once this line of reasoning is laid out, it will immediately set off alarm bells. We should not concede that any foreseeable discovery about humans could have such horrible implications. The problem is not with the pos­sibility that people might differ from one another, which is a factual question that could turn out one way or the other. The problem is with the line of reasoning that says that if people do turn out to be, different, then discrimination, oppression, or genocide would be OK after all. Fundamental values (such as equality and human rights) should not be held hostage to some factual con**­**jecture about blank slates that might be refuted tomorrow. In this chapter we will see how these values might be put on a more secure foundation.

# 1AR

Humans are not the same as animals - this recoginition does not mean we should harm animals, but is an ontological one.

Steinbock, 1978 (Bonnie, Professor of Philosophy at the University of Albany and fellow of the Hastings Center, “Speciesism and the idea of equality,” Philosophy, Vol. 53, No. 204, April, http://www.webster.edu/~corbetre/philosophy/animals/steinbock-text.html)

I think we do have to justify counting our interests more heavily than those of animals. But how? Singer is right, I think, to point out that it will not do to refer vaguely to the greater value of human life, to human worth and dignity: Faced with a situation in which they see a need for some basis for the moral gulf that is commonly thought to separate humans and animals, but can find no concrete difference that will do this without undermining the equality of humans, philosophers tend to waffle. They resort to high-sounding phrases like 'the intrinsic dignity of the human individual.' They talk of 'the intrinsic worth of all men' as if men had some worth that other beings do not have or they say that human beings, and only human beings, are 'ends in themselves,' while 'everything other than a person can only have value for a person.' . . . Why should we not attribute 'intrinsic dignity' or 'intrinsic worth' to ourselves? Why should we not say that we are the only things in the universe that have intrinsic value? Our fellow human beings are unlikely to reject the accolades we so generously bestow upon them, and those to whom we deny the honor are unable to object.9 Singer is right to be skeptical of terms like "intrinsic dignity" and "intrinsic worth." These phrases are no substitute for a moral argument. But they may point to one. In trying to understand what is meant by these phrases, we may find a difference or differences between human beings and nonhuman animals that will justify different treatment while not undermining claims for human equality. While we are not compelled to discriminate among people because of different capacities, if we can find a significant difference in capacities between human and nonhuman animals, this could serve to justify regarding human interests as primary. It is not arbitrary or smug, I think, to maintain that human beings have a different moral status from members of other species because of certain capacities which are characteristic of being human. We may not all be equal in these capacities but all human beings possess them to some measure and nonhuman animals do not. For example, human beings are normally held to be responsible for what they do. In recognizing that someone is responsible for his or her actions, you accord that person a respect which is reserved for those possessed of moral autonomy, or capable of achieving such autonomy. Secondly, human beings can be expected to reciprocate in a way that nonhuman animals cannot. Nonhuman animals cannot be motivated by altruistic or moral reasons; they cannot treat you fairly or unfairly. This does not rule out the possibility of an animal being motivated by sympathy or pity. It does rule out altruistic motivation in the sense of motivation due to the recognition that the needs and interests of others provide one with certain reasons for acting.10 Human beings are capable of altruistic motivation in this sense. We are sometimes motivated simply by the recognition that someone else is in pain, and that pain is a bad thing, no matter who suffers it. It is this sort of reason that I claim cannot motivate an animal or any entity not possessed of fairly abstract concepts. (If some nonhuman animals do possess the requisite concepts—perhaps chimpanzees who have learned a language—they might well be capable of altruistic motivation.) This means that our moral dealings with animals are necessarily much more limited than our dealings with other human beings. If rats invade our houses, carrying disease and biting our children, we cannot reason with them, hoping to persuade them of the injustice they do us. We can only attempt to get rid of them. And it is this that makes it reasonable for us to accord them a separate and not equal moral status, even though their capacity to suffer provides us with some reason to kill them painlessly, if this can be done without too much sacrifice of human interests. Thirdly, as Williams points out, there is the "desire for self-respect": "a certain human desire to be identified with what one is doing, to be able to realize purposes of one's own, and not to be the instrument of another's will unless one has willingly accepted such a role."11 Some animals may have some form of this desire, and to the extent that they do, we ought to consider their interest in freedom and self-determination. (Such considerations might affect our attitudes toward zoos and circuses.) But the desire for self-respect per se requires the intellectual capacities of human beings, and this desire provides us with special reasons not to treat human beings in certain ways. It is an affront to the dignity of a human being to be a slave (even if a well-treated one); this cannot be true for a horse or a cow. To point this out is of course only to say that the justification for the treatment of an entity will depend on the sort of entity in question. In our treatment of other entities, we must consider the desire for autonomy, dignity and respect, but only where such a desire exists. Recognition of different desires and interests will often require different treatment, a point Singer himself makes.

In their alcotta card they claim

#### Their use of the paralysis metaphor is not benign wordplay but violent language that stigmitizes disability.

Ben-Moshe, 2005. (Liat, Ph.D student in Sociology at Syracuse). ““Lame Idea”: Disabling

Language in the Classroom,” in Building Pedagogical Curb Cuts: Incorporating Disability into the University Classroom and Curriculum.” <http://www.syr.edu/

gradschool/pdf/resourcebooksvideos/Pedagogical%20Curb%20Cuts.pdf>. ZDS

When we use terms like “retarded,” “lame” or “blind”—even if we are referring to acts or ideas and not to people at all—we perpetuate the stigma associated with disability. By using a label which is commonly associated with disabled people to denote a deficiency, a lack or an ill-conceived notion, we reproduce the oppression of people with disabilities. As educators, we must be aware of the oppressive power of “everyday” language and try to change it. We learn about disability through everyday use of language. In the same way that racist or sexist attitudes, whether implicit or explicit, are acquired through the “normal” learning process, so too are negative assumptions about disabilities and the people who are labeled as having them. Our notions of people who are blind, deaf or labeled as mentally retarded come into play when we use disabling phrases, and these notions are usually far from accurate. They do not convey the complexity of living in a society that regards people with disabilities as the Other on the basis of perceived mentally or bodily difference. The use of disability as a metaphor perpetuates false beliefs about the nature of impairment and disability. People who are blind, for example, do not lack in knowledge; they simply have different ways of obtaining it. Paralysis does not necessarily imply lack of mobility, stagnancy or dependence since there are augmentative instruments, such as wheelchairs and personal aids, that secure independence and mobility. The continued use of disabling language in the classroom perpetuates ignorance and misconceptions in regards to the lived experience of people with disabilities. Power Relations in the Classroom As Marxists, feminists and anti-racist activists and scholars have claimed for decades, the world is viewed mostly from the perspective of the rulers, and language is created in their image as well. Therefore, we must not be surprised that the use of disabling language not only persists, but is neither contested nor acknowledged. Disabling language is language that accepts the assumption that disabilities are bad, unfortunate or denote lack/deficiency; that they are invisible and insignificant to society as a whole; and that disabilities belong to the Other and are distinct from what we would term as normal. What this language hides is that there is a power struggle of definitions, that normalcy is culturally determined and everchanging, and t hat there are more people who are defined as having disabilities than we acknowledge. The question that disability activists and scholars are asking is not who is disabled, but who gets to be defined as blind, mentally retarded or crippled and under what power relations? Using an oppressive abelist language to denote deficiency reproduces the same hierarchy and power relations in the classroom, and renders these phrases unproblematic. Disability is not a metaphor. It is an identity. Using disability as a metaphor to represent only negative aspects of a situation is problematic. It is made worse by the fact that blindness, deafness, paralysis, etc., are not floating signifiers, but have real referents behind them—people with disabilities. When using disabling language, we do not only de-value the lived experience of people with disabilities, but we also appropriate these lived experiences for our own use. This means that disabled people have been presented as socially flawed able-bodied people, not as people with our own identities. As responsible instructors, we must ask ourselves, when was the last time we discussed disability in our classrooms, not as metaphors, but as lived experiences?

Voting Issue – Ableist Speech strengthens oppression and destroys the purposes of public debate – the impacts trump the other warrants in their arguments

Wheelchair Dancer, 4/28/8

(“On Making Argument: Disability and Language”, <http://cripwheels.blogspot.com/2008/04/on-making-argument-disability-and.html> Accessed: 2/10/11 GAL)
If you are feeling a little bit of resistance, here, I'd ask you to think about it. If perhaps what I am saying feels like a burden -- too much to take on? a restriction on your carefree speech? -- perhaps that feeling can also serve as an indicator of how pervasive and thus important the issue is. As a community, we've accepted that commonly used words can be slurs, and as a rule, we avoid them, hopefully in the name of principle, but sometimes only in the name of civility. Do you go around using derivatives of the b**\*ch** word?If you do, I bet you check which community you are in**....** Same thing for the N word**.** These days, **depending on your age,** you might say something is retarded **or spastic,** but you probably never say that it's gay. I'd like to suggest that society as a whole has not paid the same kind of attention to disabled people's concerns about language. By not paying attention to the literal value, the very real substantive, physical, psychological, sensory, and emotional experiences that come with these linguistic moves, we have created a negative rhetorical climate. In this world, it is too easy for feminists and people of colour to base their claims on argumentative strategies that depend, as their signature moves, on marginalizing the experience of disabled people and on disparaging their appearance and bodies. Much of the blogosphere discourse of the previous weeks has studied the relationships between race, (white) feminism and feminists, and WOC bloggers. To me, the intellectual takeaway has been an emerging understanding of how, in conversation, notions of appropriation, citation, ironization, and metaphorization can be deployed as strategies of legitimation and exclusion. And, as a result, I question how "oppressed, minoritized" groups differentiate themselves from other groups in order to seek justice and claim authority. Must we always define ourselves in opposition and distance to a minoritized and oppressed group that can be perceived as even more unsavory than the one from which one currently speaks?
As I watched the discussion about who among the feminist and WOC bloggers has power and authority and how that is achieved, I began to recognise a new power dynamic both on the internet and in the world at large. Feminism takes on misogyny. The WOC have been engaging feminism. But from my point of view, a wide variety of powerful feminist and anti-racist discourse is predicated on negative disability stereotyping. There's a kind of hierarchy here: the lack of awareness about disability, disability culture and identity, and our civil rights movement has resulted in a kind of domino effect where disability images are the metaphor of last resort: the bottom, the worst. Disability language has about it a kind of untouchable quality -- as if the horror and weakness of a disabled body were the one true, reliable thing, a touchstone to which we can turn when we know we can't use misogynistic or racist language. When we engage in these kinds of argumentative strategies, we exclude a whole population of people whose histories are intricately bound up with ours. When we deploy these kinds of strategies to underscore the value of our own existence in the world, we reaffirm and strengthen the systems of oppression that motivated us to speak out in the first place.

Evaluation of risk is enabling – prefer specific evidence

Moser and Dilling 11

 The Oxford Handbook of Climate Change and Society

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 Clearly these findings pose difficult dilemmas for communicators: Should we avoid telling what scientists have established as facts and reasonable outlooks about the seriousness, pace, and long-term commitment of climate change? Should we instead only discuss energy- and money-saving actions and convey pictures of hope by focusing on the easy actions, the 'doability' of mitigation? Should we perpetuate the idea that there are fifty 'simple ways to save the planet,' just to spare lay publics rather appropriate anxiety? Existing research suggests otherwise. While neither alarmism nor Pollyannaism seem to yield desired results, wise integration of strategies may well result in greater engagement. First, communication that affirms rather than threatens the sense of self and basic world- views held by the audience has been shown to create a greater openness to risk information (Kahan and Braman 2008). Second, risk information and fear-evoking images should be limited and always be combined with messages and information that provide specific, pragmatic help in realizing doable solutions. These solutions must be reasonably effective in reducing the problem, especially together with other solutions being implemented. Importantly, communicators must establish a sense of collective response, especially by people in like social and cultural groups. Moreover, solutions should be broadly consistent with individuals' personal aspirations, desired social identity, and cultural biases (CRED 2009; Segnit and Ereaut 2007). Finally, given the ideological polarization around responses to climate change (discussed below), the legitimate experience of fear and being over- whelmed, and the deep and lasting societal changes required to address the problem, there is an important place for facilitated dialogue and structured deliberation of the issues as they emerge (Kahan and Braman 2006). Such deliberation has been shown to improve interpersonal knowledge and trust of people with very different values, provide critical social support and affirmation, increase openness to different opinions and risk information, and thus to enable decision making, rather than obstruct it (Nagda 2006).

Fear of extinction is a legitimate and productive response ---working through it is the only way to create an authentic relationship to the world and death

Macy 2K – Joanna Macy, adjunct professor at the California Institute of Integral Studies, 2000, Environmental Discourse and Practice: A Reader, p. 243

The move to a wider ecological sense of self is in large part a function of the dangers that are threatening to overwhelm us. We are confronted by social breakdown, wars, nuclear proliferation, and the progressive destruction of our biosphere. Polls show that people today are aware that the world, as they know it, may come to an end. This loss of certainty that there will be a future is the pivotal psychological reality of our time.

Over the past twelve years my colleagues and I have worked with tens of thousands of people in North America, Europe, Asia, and Australia, helping them confront and explore what they know and feel about what is happening to their world. The purpose of this work, which was first known as “Despair and Empowerment Work,” is to overcome the numbing and powerlessness that result from suppression of painful responses to massively painful realities. As their grief and fear for the world is allowed to be expressed without apology or argument and validated as a wholesome, life-preserving response, people break through their avoidance mechanisms, break through their sense of futility and isolation. Generally what they break through into is a larger sense of identity. It is as if the pressure of their acknowledged awareness of the suffering of our world stretches or collapses the culturally defined boundaries of the self.

It becomes clear, for example, that the grief and fear experienced for our world and our common future are categorically different from similar sentiments relating to one’s personal welfare. This pain cannot be equated with dread of one’s own individual demise. Its source lies less in concerns for personal survival than in apprehensions of collective suffering – of what looms for human life and other species and unborn generations to come. Its nature is akin to the original meaning of compassion – “suffering with.” It is the distress we feel on behalf of the larger whole of which we are a part. And, when it is so defined, it serves as a trigger or getaway to a more encompassing sense of identity, inseparable from the web of life in which we are as intricately connected as cells in a larger body.

This shift in consciousness is an appropriate, adaptive response. For the crisis that threatens our planet, be it seen in its military, ecological, or social aspects, derives from a dysfunctional and pathogenic notion of the self. It is a mistake about our place in the order of things. It is the delusion that the self is so separate and fragile that we must delineate and defend its boundaries, that it is so small and needy that we must endlessly acquire and endlessly consume, that it is so aloof that we can – as individuals, corporations, nation-states, or as a species – be immune to what we do to other beings.