## 1AC

**Plan**

**The United States federal judiciary should restrict the authority of the President of the United States to indefinitely detain on the grounds that executive indefinite detention violates the Suspension Clause.**

**advantage 1 – Afghanistan**

**Afghanistan is adopting detention policies modeled off US law- this makes instability inevitable**

**Rodgers 12** (Chris Rogers is a human rights lawyer for the Open Society Foundations specializing in human rights and conflict in Afghanistan and Pakistan, May 14, “Karzai's bid for a dictatorial detention law”, http://afpak.foreignpolicy.com/posts/2012/05/14/karzais\_bid\_for\_a\_dictatorial\_detention\_law)

As part of the agreement to transfer control of Bagram, **the Afghan government is creating the authority to hold individuals without charge or trial for an indefinite period of time on security grounds-a power it has never before said it needed.** While such "administrative detention" regimes are permissible under the laws of war, **this new detention power is being established in order to hand over a U.S. detention facility, not because changes in the conflict have convinced Afghan officials that it is necessary**. A surge in U.S. detention operations like night raids has driven the prison population to over 3,000 detainees, most of whom the United States lacks evidence against for prosecution under Afghans law. **Because the Afghan constitution, like the United States', protects individuals from being detained without charge or trial, the Afghan government needs a new detention law, which is now being modeled on deeply problematic U.S. detention policies and practices.** As a result, **Bagram's real legacy may be the establishment of a detention regime that will be ripe for abuse in a country with pervasive corruption and weak rule of law.** Despite potentially far-reaching consequences, **the development of this new detention power has been hidden from public view**. **When I met with leading Afghan lawyers and civil society organizations in Kabul several weeks ago, few knew that the government was proposing to create a new, non-criminal detention regime.** Their reaction was disbelief and dismay. **None had even seen a copy of the proposed regime, which the Afghan government has not made public and is trying to adopt by presidential fiat.** **The Open Society Foundations recently obtained a copy of the proposed detention regime, and after review, we have found what it details deeply troubling**. **The proposed changes leave open critical questions** about the nature and scope of this proposed detention regime, **which if left unanswered make it ripe for abuse. Who can be held in administrative detention and for how long? Where will it apply? When will the government cease to have this power? How will the government ensure it will not be abused to imprison the innocent or suppress political opposition?** **Most alarming is the failure to address the serious, long-term risks posed by such a regim**e. From apartheid South Africa to modern day China, administrative **detention regimes adopted on security grounds have too often been used as tools of repression**. In Egypt, the former government used administrative detention for decades to commit gross human rights violations and suppress political opposition, relying on a state of emergency declared in 1958, and nominally lifted only after last year's revolution. Across the border in Pakistan, the draconian Frontier Crimes Regulations are another stark reminder of the long, dark shadow that such legal regimes can cast. The ongoing imposition of these British, colonial-era laws, which among other things legalize collective punishment and detention without trial, are cited by many as a key driver of the rise of militancy in the tribal areas of Pakistan. **But there is still time for the United States to avoid this legacy in Afghanistan.** If the Afghan government cannot be dissuaded from adopting an administrative detention regime, then the United States should urge the Afghan government to include provisions that limit its scope and reduce its vulnerability to abuse. First, a ‘sunset' provision should be adopted, which would impose a time limit on such powers, or require an act by the Afghan Parliament to extend their duration. Second, the regime should be limited to individuals currently held by the United States at Bagram prison. There is no clear reason why the handover of Bagram detainees requires the creation of a nation-wide administrative detention regime. More generally, the scope of who can be detained must be clearly defined and limited. Third, **detainees must have right to counsel as well as access to the evidence used against them in order to have a meaningful opportunity to challenge their detention-a fundamental right in international law**. **At present it seems the government will follow the well-documented due process shortfalls of the U.S. model.** **The United States and its Afghan partners must be honest about the serious, long-term risks of establishing an administrative detention regime in Afghanistan-particularly one that lacks clear limits and is democratically unaccountable**. Protection from arbitrary or unlawful deprivation of life or liberty is at the constitutional core of the United States, and is essential to lasting stability and security in Afghanistan**. Living up to the President's promise of responsibly ending the war in Afghanistan requires defending, not betraying this principle.**

**Detention policy has prevented rule of law restoration in Afghanistan- judicial modeling makes US action key**

**ICG 10** (International Crisis Group, November 17, “REFORMING AFGHANISTAN’S BROKEN JUDICIARY”, http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/195%20Reforming%20Afghanistans%20Broken%20Judiciary.ashx)

**U.S. detention policy has frequently been cited by Afghan and international legal experts as** one of **the chief obstacles to restoring balance to the Afghan justice system and citizens’ faith in the rule of law**.233 The operation of parallel U.S.-controlled prisons has been problematic from the start**. Thousands of Afghans have been detained since the start of Operation Enduring Freedom in 2001 without recourse to trial or the means to challenge their detention.** Abuse of prisoners at the U.S.-run Bagram Theatre Internment Facility in the early years of its operation under the Bush administration has been well documented, including the use of harsh interrogation techniques that resulted in the deaths of two Afghans.234 **Extrajudicial detentions at Bagram have eroded support for foreign troops and for many Afghans** – **Pashtuns in particular** – **stand as a symbol of oppression.** Like its sister facility at the U.S. military base in Guantanamo, Cuba, the Bagram prison has provided much grist for Taliban propaganda mills.235 **U.S. officials under the Obama administration appear to have begun to recognise that extrajudicial detentions have negatively impacted Afghan perceptions of the rule of law.** In January 2009, the U.S. government announced plans to close the facility at Guantanamo and to re-evaluate its detainee programs overall. A U.S. federal district court ruling in April 2009 concluding that non-Afghan detainees held at the Bagram facility have a right to challenge their detention in American courts has hastened the need to find solutions to the legal conundrum posed by the extrajudicial status of prisoners at Bagram.236 In September 2009, the U.S. Department of Defense adopted a new framework for evaluating the status of detainees in U.S. facilities in Afghanistan. Responsibility for detainee policy and operations now falls to Task Force 435, an interagency unit under joint military-civilian leadership whose mission is to bring detention and rule of law practices in line with U.S. strategic goals in Afghanistan. The old Bagram facility has since been replaced by the more modern Detention Facility in Parwan (DFIP), which opened in 2009 at the edge of the Bagram military base. Under this new policy, new detainee review board (DRB) procedures were adopted to bring detention practices in Afghanistan more in line with U.S. and international law. They replaced the Unlawful Enemy Combatant Review Boards, which had been generally deemed inadequate because they afforded detainees few, if any, opportunities to challenge their arrest or to review evidence in cases brought against them in closed hearings. **Under the new procedures, a military panel determines if a detainee has been properly captured and poses a future threat to the Afghan government or international security forces. Although the U.S. government is careful not to characterise the proceedings as legal or adversarial in the sense that a trial might be, detainees are allowed to some extent to present their version of events with the help of a U.S.-assigned “personal representative”. Hundreds of detainees have had their cases reviewed since the new review procedures were adopted and a number have been released because of insufficient evidence that they posed a threat to the Afghan government**.237 **These new guidelines are an important step forward**, **but they are far from replicating internationally recognised fair trial standards**. **A number of other actions must be taken to make U.S. detention policy more transparent, humane and fair and to bring it in line with international law**. Specifically**, U.S. investigation and intelligence gathering standards must be improved and the review board process must incorporate a more vigorous mechanism that allows detainees to review and challenge evidence brought against them, including measures for classified evidence**. Transition to Afghan control of specially designated detainees will also necessitate a re-evaluation of classification procedures both at the point of capture and across agencies – both Afghan and U.S. The current process of declassifying information is far too cumbersome and there is a demand for greater clarity on the rules of transfer of information from coalition and Afghan sources to Afghan government sources.238 Changes in declassification policy will necessitate a serious review of current Afghan law and investigative practices and procedures employed by the Afghan National Directorate of Security and other security organs. In January 2010, the U.S. and Afghan government signed a memorandum of understanding calling for the DFIP to pass from U.S. to Afghan control in July 2011. By that time, review proceedings should be conducted entirely by Afghan judges and prosecutors; an Afghan judge in the Parwan provincial courts has already reviewed a number of detainee cases.239 **The U.S. has set up a rule of law centre at the new facility with a view to training Afghan legal professionals to build cases against the roughly 1,100 detainees housed at the prison. The training and transition are important first steps toward dismantling the parallel legal systems that have co-existed uneasily in Afghanistan since the start of the U.S. military engagement. The transition could entail some tricky procedural challenges** in terms of potential conflicts between Afghan courts and U.S. military authorities over the danger posed by “highrisk” detainees.240 This and other issues should be clarified before the transition in 2011.

**Starting with US policy is key- it will restore credibility in our system and allows us to improve the Afghani justice system**

**Eviatar 12** (Daphne Eviatar Law and Security Program Human Rights First, 1-9, “The Latest Skirmish in Afghanistan: Hate to Say We Told You So”, http://www.humanrightsfirst.org/2012/01/09/the-latest-skirmish-in-afghanistan-hate-to-say-we-told-you-so/)

**Responsibility begins with due process.** As we wrote in our report in May, based on our observations of the hearings given to detainees at the U.S.-run detention facility at Bagram: “**the current system of administrative hearings provided by the U.S. military fails to provide detainees with an adequate opportunity to defend themselves against charges that they are collaborating with insurgents and present a threat to U.S. forces**.” As a result, **the U.S. hearings “fall short of minimum standards of due process required by international law.”** For President Karzai, that’s an argument that the U.S. should immediately turn the thousands of detainees it’s holding over to the government of Afghanistan. But that would do little to solve the problem. TheUnited Nations reported in October that Afghanistan’s intelligence service systematically tortures detainees during interrogations. **The U.S. government cannot hand prisoners over to the Afghans if they’re likely to be tortured, according to its obligations under international law. And unfortunately, as we also noted in our report, the Afghan justice system, although improving with the growing introduction of defense lawyers, is still hardly a model of due process. Still, unlike the United States, at least Afghan law does not permit detention without criminal charge, trial and conviction. The United States hasn’t exactly proven itself the best model for the Afghan justice system. Restoring U.S. credibility is going to be key to our ability to withdraw from Afghanistan** **without it becoming a future threat to U.S. national security**. **The U.S. government can’t credibly insist that the Afghans improve their justice system and treatment of detainees if the U.S. military doesn’t first get its own detention house in order. Whether for the sake of international law, U.S. credibility, or merely to improve relations with the Karzai government, upon which U.S. withdrawal from Afghanistan depends, the U.S. military needs to start providing real justice to the thousands of prisoners in its custody.**

**Judicial action is key to international credibility and restoring the rule of law**

**Hecht, 05** (Daryl, Judge for the Iowa Court of Appeals, 50 S.D. L. REV. 78, lexis)
Americans proclaim with some justification that liberty and human rights are among the crown jewels of their national identity. Claiming the status of human rights watchdogs around the globe, representatives of the United States government commonly criticize human rights failures of other nations. If such criticism is to be taken seriously and carry force abroad when well-founded, the United States government must heed its own admonitions. It should accord due process not only to all persons detained within its borders but also to those it imprisons offshore at locations under the exclusive control of the United States. **Affirmation by federal courts of the liberty interests of alien prisoners** imprisoned on Guantanamo **would give important symbolic assurance to** citizens of the United States, **foreign nationals, friends, and foes that liberty is a cherished universal human right** that does not persist or perish according to technicalities such as geographic boundaries. As they clarify the nature and extent of process due the Guantanamo prisoners, federal courts will consider the Eisentrager Court's concerns about the prospect that thorough judicial review might disrupt war efforts. [288](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n288) The realities [\*111] of war may justify reasonable restriction of the process available to prisoners of war during times of armed conflict and justify some judicial deference allowing the executive to conduct military campaigns with a minimum of distraction. However, **the risk that the war effort will be disrupted by judicial** or administrative **review** of the grounds for detention **are diminished** in these cases **because** the prison is distant from the present theaters of war. **Modern technology will facilitate the presentation of evidence at remote sites** in ways not contemplated by the Court in the Eisentrager era **and will render unpersuasive many of the Executive's war-powers arguments** against meaningful judicial review. The recent commencement of administrative hearings conducted by the Combatant Status Review Tribunals and the discharge of some of the Guantanamo prisoners are positive developments. It remains to be seen whether federal courts will conclude these administrative tribunals within the Executive branch allow for meaningful review of the prisoners' status. Although passage of the Military Tribunals Act of 2003 would, especially with suggested amendments, alleviate many of the most egregious legal infirmities associated with the ongoing detention of uncharged prisoners, a timely legislative solution to the problem through the action of the political branches of government is unlikely. The best and perhaps only prospect for meaningful protection of the uncharged detainees' rights against indefinite imprisonment lies in the litigation pending in federal courts. The remaining uncharged prisoners have languished too long in prison without charge or access to counsel, and the courts must be vigilant to prevent the continuation of arbitrary detentions in violation of international humanitarian and human rights principles. Alien prisoners ought not be disqualified from fundamental constitutional protections solely as a consequence of the government's choice of an off-shore location for their confinement. If deprivation of aliens' property interests may legally be imposed within the United States only in conformity with due process principles, the liberty interests of aliens held on Guantanamo should receive no less protection against state action. It should be understood that arguments in favor of meaningful review of the status of the Guantanamo prisoners is not an argument for the immediate release of all aliens imprisoned on Guantanamo. The evidence presented in habeas proceedings or in fair administrative tribunal hearings may establish reasonable grounds to believe some petitioners are properly designated and detained as enemy combatants. Under international humanitarian law, they may be detained during the conflict, but it seems evident that the GPW did not contemplate perpetual imprisonment without charge during an interminable war. [289](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n289) The [\*112] evidence offered in a meaningful review process may support war crimes charges against some of the prisoners who will be tried before military commissions under the regulations adopted by the Department of Defense. If the evidence establishes that still other prisoners have, as they allege, been improvidently incarcerated, they should be promptly discharged. In Korematsu v. United States, [290](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n290) the Court deferred during a declared war to the Executive's decision to evacuate persons of Japanese ancestry from locations on the west coast and relocate them in internment camps without the benefit of charges or hearings. That decision has since been widely criticized, and at least one member of the Court later publicly regretted his vote to defer to the military's judgment of necessity. [291](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n291) In 1976, as part of the celebration of the Bicentennial of the Constitution, President Gerald Ford issued a proclamation acknowledging that the internment of the Japanese Americans, many of whom were citizens, during World War II was wrong and calling upon the United States to "resolve that this kind of action shall never again be repeated." [292](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n292) Federal courts now have the opportunity to revisit the appropriate balance between precious civil liberties and measures properly taken in furtherance of national security during times of crisis. As the proper balance is recalibrated to fit the circumstances presented in the Guantanamo litigation, the courts can interrupt the "all too easy slide from a case of genuine military necessity ... to one where the threat is not critical and the power [sought to be exercised is] either dubious or nonexistent." [293](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n293)**If the Guantanamo litigation forces meaningful review of the prisoners' status, it will advance the rule of law and model a fundamental principle of international leadership**. **"If the U**nited**S**tates **represents values that others want to follow, it will cost us less to lead**." [294](https://www.lexis.com/research/retrieve?_m=938acabc8d208f2c7d5fa60db492ee72&docnum=98&_fmtstr=FULL&_startdoc=51&wchp=dGLbVzb-zSkAt&_md5=eeae0c139818f7b3acae88f6aed6f150&focBudTerms=supreme%20court%20should%20w/30%20guantanamo%20and%20deference%20and%20date%3E2001&focBudSel=all#n294) There is, of course, no doubt that the United States has the military power to ignore the prisoners' liberty interests and continue to hold them indefinitely without charge. But the raw power to maintain the status quo provides no legal justification consistent with reason, fundamental human rights, and principles of limited government for doing so.

**Only restoring confidence in their judiciary system can make our post-drawdown COIN strategy successful**

**ICG 10** (International Crisis Group, November 17, “REFORMING AFGHANISTAN’S BROKEN JUDICIARY”, http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/195%20Reforming%20Afghanistans%20Broken%20Judiciary.ashx)

**A substantial course correction is needed to restore the rule of law in Afghanistan**. Protecting citizens from crime and abuses of the law is elemental to state legitimacy. **Most Afghans do not enjoy such protections and their access to justice institutions is extremely limited**. As a result**, appeal to the harsh justice of the Taliban has become increasingly prevalent**. **In those rare instances when Afghans do appeal to the courts for redress, they find uneducated judges on the bench and underpaid prosecutors looking for bribes**. Few judicial officials have obtained enough education and experience to efficiently execute their duties to uphold and enforce the law. Endemic problems with communications, transport, infrastructure and lack of electricity mean that it is likely that the Afghan justice system will remain dysfunctional for some time to come. **Restoring public confidence in the judiciary is critical to a successful counter-insurgency strategy**. The deep-seated corruption and high levels of dysfunction within justice institutions have driven a wedge between the government and the people. **The insurgency is likely to widen further if Kabul does not move more swiftly to remove barriers to reform. The first order of business must be to develop a multi-year plan aimed at comprehensive training and education for every judge and prosecutor who enters the system**. Pay-and-rank reform must be implemented in the attorney general’s office without further delay**. Building human capacity is essential to changing the system. Protecting that capacity, and providing real security for judges, prosecutors and other judicial staff is crucial to sustaining the system as a whole**. The international community and the Afghan government need to work together more closely to identify ways to strengthen justice institutions**. A key part of any such effort will necessarily involve a comprehensive assessment of the current judicial infrastructure on a province-byprovince basis with a view to scrutinising everything** from caseloads to personnel performance. This must be done regularly to ensure that programming and funding for judicial reform remains dynamic and responsive to real needs. More emphasis must be placed on public education about how the system works and where there are challenges. Transparency must be the rule of thumb for both the government and the international community when it comes to publishing information about judicial institutions. Little will change without more public dialogue about how to improve the justice system. **The distortions created in the justice system by lack of due process and arbitrary detentions under both Afghan institutions and the U.S. military are highly problematic**. **Until there is a substantial change in U.S. policy that provides for the transparent application of justice and fair trials for detainees, the insurgency will always be able to challenge the validity of the international community’s claim that it is genuinely interested in the restoration of the rule of law**. If the international community is serious about this claim, then more must be done to ensure that the transition from U.S. to Afghan control of detention facilities is smooth, transparent and adheres to international law.

**Unsuccessful drawdown makes nuclear war inevitable**

**Cronin 13** (Audrey Kurth Cronin is Professor of Public Policy at George Mason University and author of How Terrorism Ends and Great Power Politics and the Struggle over Austria. Thinking Long on Afghanistan: Could it be Neutralized? Center for Strategic and International Studies The Washington Quarterly • 36:1 pp. 55\_72<http://dx.doi.org/10.1080/0163660X.2013.751650>)

**With ISAF withdrawal inevitable, a** **sea change** **is** already **underway**: **the question is whether the** **U**nited **S**tates **will be** **ahead of the curve or** **behind it.** Under current circumstances, key actions within Afghanistan by any one state are perceived to have a deleterious effect on the interests of other competing states, so the only feasible solution is to discourage all of them from interfering in a neutralized state. **As the** **U**nited **S**tates **draws down** over the next two years, **yielding to** regional **anarchy would be** **irresponsible.** **Allowing neighbors to** rely on bilateral measures, **jockey for relative position**, and pursue conflicting national interests **without regard for dangerous regional dynamics** **will result in** a **repeat of the pattern** that has played out in Afghanistan for the **past thirty years\_**/except this time the outcome could be not just terrorism but **nuclear war.**

**Judicial reform and COIN are key to long term stability**

**The Nation 9** (Nov. 11, 2009, http://www.nation.com.pk/pakistan-news-newspaper-daily-english-online/International/11-Nov-2009/UN-body-urges-Karzai-to-fight-corruption)

UNITED NATIONS - **The UN General Assembly has urged** the government of re-elected Afghan President Hamid **Karzai to press ahead with “strengthening of the rule of law and democratic processes**, the fight against corruption (**and**) **the acceleration of justice sector reform**.” The 192-member assembly made that call Monday night by unanimously adopting a resolution that also declared that Afghanistan’s presidential election “credible” and “legitimate”, despite allegations of widespread fraud that led Karzai’s main challenger Abdullah Abdullah to pull out of the run-off round of the election. But the UN assembly raised no doubts about Karzai’s mandate or his right to continue leading the war-torn country. The resolution welcomed “the efforts of the relevant institutions to address irregularities identified by the electoral institutions in Afghanistan and to ensure a credible and legitimate process in accordance with the Afghan Election Law and in the framework of the Afghan Constitution.” **It appealed to the international community to help Afghanistan in countering the challenges of the militants’ attacks that threaten its democratic process and and economic development**. Before the assembly approved the resolution, 24 countries, including Pakistan, spoke in the debate on the deteriorating situation in Afghanistan in which they stressed the need for the Afghan Government and the global community to work closely together. Pakistan’s Acting Permanent Representative Amjad Hussain Sial said **the core of violence and conflict in Afghanistan emanated from terrorist groups, foreign militants such as Al-Qaeda, and militant Taliban who were not prepared to reconcile and give up fighting.** The nexus with drug traders was increasingly discernable. **The key to long-term stability in Afghanistan**, he said, **was reformation of** thecountry’s corrupt **governmental systems**. Equally important was building the civilian institutions at the central and subnational levels.

**Instability results in multiple conflict scenarios specifically- Indo-Pak and Korean war**

**Carafano ’10** (Con: Obama must win fast in Afghanistan or risk new wars across the globe By JAMES JAY CARAFANO   Saturday, Jan. 2, 2010 James Jay Carafano is a senior research fellow for national security at The Heritage Foundation and directs its Allison Center for Foreign Policy Studies)

There’s little chance Kabul will become Saigon 1968. If the war in Afghanistan starts going south for allied forces, President Obama will probably quit rather than risk getting bogged down. President Lyndon B. Johnson considered Vietnam more a distraction than a national mission, yet he ramped up the troop commitment all the same. In 1968, the North Vietnamese launched a major offensive during the Tet holiday. They lost that battle. Badly! But the fact that they were able to mount such a large-scale offensive gave many Americans—including Walter Cronkite—the impression that the war wasn’t winnable. As “the U.S. is bogged down” became the common view, Johnson’s presidency fell to ashes. Not much chance Obama will go that route. **If the violence skyrockets** next year and it looks as though the president’s ambitious objectives can’t be met, **Afghanistan could look a lot more like Vietnam** in 1973. U.S. forces withdrew. Our abandoned ally was soon overrun. South Vietnam became a gulag; Cambodia sprouted the killing fields; life in Laos was just plain lousy. By 1979, the Sino-Vietnamese war erupted. We can expect similar results if Obama’s Afghan strategy fails and he opts to cut and run. Most forget that throwing South Vietnam to the wolves made the world a far more dangerous place. The Soviets saw it as an unmistakable sign that America was in decline. They abetted military incursions in Africa, the Middle East, southern Asia and Latin America. They went on a conventional- and nuclear-arms spending spree. They stockpiled enough smallpox and anthrax to kill the world several times over. State-sponsorship of terrorism came into fashion. **Osama bin Laden called America a “paper tiger.” If we live down to that moniker in Afghanistan, odds are the world will get a lot less safe**. **Al-Qaida would be back in the game**. **Regional terrorists would go after both Pakistan and India**—potentially **triggering a nuclear war between the two countries**. **Sensing a Washington in retreat**, **Iran and North Korea could shift their nuclear programs into overdrive**, hoping to save their failing economies by selling their nuclear weapons and technologies to all comers. **Their nervous neighbors would want nuclear arms** of their own. **The resulting nuclear arms race could be far more dangerous** than the Cold War’s two-bloc standoff. **With multiple, independent, nuclear powers cautiously eyeing one another, the world would look a lot more like Europe in 1914, when precarious shifting alliances snowballed into a very big, tragic war.** The list goes on. There is no question that **countries such as Russia, China and Venezuela would rethink their strategic calculus** as well. **That could produce all kinds of serious** regional **challenges** for the United States. Our **allies might rethink things as well**. Australia has already hiked its defense spending because it can’t be sure the United States will remain a responsible security partner. **NATO might well fall apart**. Europe could be left with only a puny EU military force **incapable of defending the interests of its nations.**

**Limited Indo-Pak war causes extinction**

**Toon et al 7** – Atmospheric and Oceanic Sciences @ University of Colorado – ‘7 [Owen B. Toon, Alan Robock (Professor of Environmental Sciences @ Rutgers University), Richard P. Turco (Professor of Atmospheric and Oceanic Sciences @ UCLA, Charles Bardeen (Professor of Atmospheric and Oceanic Sciences @ University of Colorado), Luke Oman (Professor of of Earth and Planetary Sciences @ Johns Hopkins University), Georgiy L. Stenchikov (Professor of Environmental Sciences @ Rutgers University), “NUCLEAR WAR: Consequences of Regional-Scale Nuclear Conflicts,” Science, 2 March 2007, Vol. 315. no. 5816, pp. 1224 – 1225]

The world may no longer face a serious threat of global nuclear warfare, but regional conflicts continue. Within this milieu, acquiring nuclear weapons has been considered a potent political, military, and social tool (1-3). National ownership of nuclear weapons offers perceived international status and insurance against aggression at a modest financial cost. Against this backdrop, we provide a quantitative assessment of the potential for casualties in a regional-scale nuclear conflict, or a terrorist attack, and the associated environmental impacts (4, 5). Eight nations are known to have nuclear weapons. In addition, North Korea may have a small, but growing, arsenal. Iran appears to be seeking nuclear weapons capability, but it probably needs several years to obtain enough fissionable material. Of great concern, 32 other nations--including Brazil, Argentina, Japan, South Korea, and Taiwan--have sufficient fissionable materials to produce weapons (1, 6). A de facto nuclear arms race has emerged in Asia between China, India, and Pakistan, which could expand to include North Korea, South Korea, Taiwan, and Japan (1). In the Middle East, a nuclear confrontation between Israel and Iran would be fearful. Saudi Arabia and Egypt could also seek nuclear weapons to balance Iran and Israel. Nuclear arms programs in South America, notably in Brazil and Argentina, were ended by several treaties in the 1990s (6). We can hope that these agreements will hold and will serve as a model for other regions, despite Brazil's new, large uranium enrichment facilities. Nuclear arsenals containing 50 or more weapons of low yield [15 kilotons (kt), equivalent to the Hiroshima bomb] are relatively easy to build (1, 6). India and Pakistan, the smallest nuclear powers, probably have such arsenals, although no nuclear state has ever disclosed its inventory of warheads (7). Modern weapons are compact and lightweight and are readily transported (by car, truck, missile, plane, or boat) (8). The basic concepts of weapons design can be found on of the Internet. The only serious obstacle to constructing a bomb is the limited availability of purified fissionable fuels.There are many political, economic, and social factors that could trigger a regional-scale nuclear conflict, plus many scenarios for the conduct of the ensuing war. We assumed (4) that the densest population centers in each country--usually in megacities--are attacked. We did not evaluate specific military targets and related casualties. We considered a nuclear exchange involving 100 weapons of 15-kt yield each, that is, ~0.3% of the total number of existing weapons (4). **India and Pakistan**, for instance, have previously tested nuclear weapons and are now thought to **have** between 109 and **172** **weapons** of unknown yield (9). Fatalities were estimated by means of a standard population database for a number of countries that might be targeted in a regional conflict (see figure, above). For instance, such **an exchange between India and Pakistan** (10) **could produce about 21 million fatalities**--about half as many as occurred globally during World War II. The direct effects of thermal radiation and nuclear blasts, as well as gamma-ray and neutron radiation within the first few minutes of the blast, would cause most casualties. Extensive damage to infrastructure, contamination by long-lived radionuclides, and psychological trauma would likely result in the indefinite abandonment of large areas leading to severe economic and social repercussions. **Fires ignited by nuclear bursts would release copious amounts of light-absorbing smoke into the upper atmosphere.** If 100 small nuclear weapons were detonated within cities, they could generate 1 to 5 million tons of carbonaceous smoke particles (4), darkening the sky and affecting the atmosphere more than major volcanic eruptions like Mt. Pinatubo (1991) or Tambora (1815) (5). Carbonaceous smoke particles are transported by winds throughout the atmosphere but also induce circulations in response to solar heating. Simulations (5) predict that such radiative-dynamical interactions would loft and stabilize the smoke aerosol, which would allow it to persist in the middle and upper atmosphere for a decade. Smoke emissions of 100 low-yield urban explosions in a regional nuclear conflict **would generate** **substantial global-scale climate anomalies**, although not as large as in previous "nuclear winter" scenarios for a full-scale war (11, 12). However, **indirect effects on surface land temperatures, precipitation rates, and growing season lengths** (see figure, below) **would** be likely to **degrade agricultural productivity** to an extent **that historically has led to famines** in Africa, India, and Japan after the 1783-1784 Laki eruption (13) or in the northeastern United States and Europe after the Tambora eruption of 1815 (5). Climatic anomalies could persist for a decade or more because of smoke stabilization, far longer than in previous nuclear winter calculations or after volcanic eruptions. Studies of the consequences of full-scale nuclear war show that **indirect effects** of the war could cause more casualties than direct ones, perhaps **eliminating the majority of the world's population** (11, 12). Indirect effects such as damage to transportation, energy, medical, political, and social infrastructure could be limited to the combatant nations in a regional war. However, **climate anomalies would threaten the world outside the combat** **zone**. The predicted smoke emissions and fatalities per kiloton of explosive yield are roughly 100 times those expected from estimates for full-scale nuclear attacks with high-yield weapons (4).

**Deterrence doesn’t check escalation**

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July 12, 2010, http://the-diplomat.com/2010/07/12/south-asia%e2%80%99s-nuclear-war-risk/4/?print=yes]

Yet even setting aside the question of nuclear weapons falling into terrorist hands, **nuclear competition between India and Pakistan is especially dangerous. Active (and ongoing) political disputes between the two countries have resulted in three past wars as well as numerous proxy conflicts.** Pakistani leaders in particular have concluded that their nuclear arsenal has deterred India from again using its conventional forces to attack Pakistani territory. As a result, **Pakistan’s implicit nuclear doctrine presumes the possible first use of nuclear weapons. The risks of such tensions are compounded by the physical proximity of the two** countries, **as well as their reliance on ballistic missiles as delivery vehicles, which means that early warning times might be as little as five to ten minutes. Although it remains unclear whether India or Pakistan have combined its nuclear warheads with their assigned delivery systems, such a precarious stance would increase the risks of both accidental and catalytic war** (a nuclear conflict between both governments precipitated by a third party, such as a terrorist group). Throw China into the mix, with Pakistan at risk of viewing its own nuclear programme as increasingly inadequate as India seeks to achieve mutual deterrence with China, and the picture becomes more complicated. And add in the risk of widespread political disorder in either India or Pakistan, which could see a dangerous political adventurism as political leaders look to rally domestic support, and the peculiar challenges posed by the region become clearer. The fact is **South Asia is particularly prone to a destabilizing arms race. And perhaps nuclear war.**

#### Korean conflict escalates and goes global --- risk of miscalc is high and this time is different

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Today, North Korea is the most dangerous country on earth and the greatest threat to U.S. security. For years, the bizarre regime in Pyongyang has issued an unending stream of claims that a U.S. and South Korean invasion is imminent, while declaring that it will defeat this offensive just as -- according to official propaganda -- it overcame the unprovoked American attack in 1950. Often the press releases from the official North Korean news agency are absurdly funny, and American policymakers tend to ignore them as a result. Continuing to do so, though, could be dangerous as events and rhetoric turn even more ominous. ¶ In response to North Korea's Feb. 12 nuclear test, the U.N. Security Council recently tightened existing sanctions against Pyongyang. Even China, North Korea's long-standing benefactor and protector, went along. Convulsed by anger, Pyongyang then threatened a pre-emptive nuclear strike against the United States and South Korea, abrogated the 1953 armistice that ended the Korean War and cut off the North-South hotline installed in 1971 to help avoid an escalation of tensions between the two neighbors. A spokesman for the North Korean Foreign Ministry asserted that a second Korean War is unavoidable. He might be right; for the first time, an official statement from the North Korean government may prove true. ¶ No American leader wants another war in Korea. The problem is that the North Koreans make so many threatening and bizarre official statements and sustain such a high level of military readiness that American policymakers might fail to recognize the signs of impending attack. After all, every recent U.S. war began with miscalculation; American policymakers misunderstood the intent of their opponents, who in turn underestimated American determination. The conflict with North Korea could repeat this pattern. ¶ Since the regime of Kim Jong Un has continued its predecessors’ tradition of responding hysterically to every action and statement it doesn't like, it's hard to assess exactly what might push Pyongyang over the edge and cause it to lash out. It could be something that the United States considers modest and reasonable, or it could be some sort of internal power struggle within the North Korean regime invisible to the outside world. While we cannot know whether the recent round of threats from Pyongyang is serious or simply more of the same old lathering, it would be prudent to think the unthinkable and reason through what a war instigated by a fearful and delusional North Korean regime might mean for U.S. security. ¶ The second Korean War could begin with missile strikes against South Korean, Japanese or U.S. targets, or with a combination of missile strikes and a major conventional invasion of the South -- something North Korea has prepared for many decades. Early attacks might include nuclear weapons, but even if they didn't, the United States would probably move quickly to destroy any existing North Korean nuclear weapons and ballistic missiles. ¶ The war itself would be extremely costly and probably long. North Korea is the most militarized society on earth. Its armed forces are backward but huge. It's hard to tell whether the North Korean people, having been fed a steady diet of propaganda based on adulation of the Kim regime, would resist U.S. and South Korean forces that entered the North or be thankful for relief from their brutally parasitic rulers. As the conflict in Iraq showed, the United States and its allies should prepare for widespread, protracted resistance even while hoping it doesn't occur. Extended guerrilla operations and insurgency could potentially last for years following the defeat of North Korea's conventional military. North Korea would need massive relief, as would South Korea and Japan if Pyongyang used nuclear weapons. Stabilizing North Korea and developing an effective and peaceful regime would require a lengthy occupation, whether U.S.-dominated or with the United States as a major contributor. ¶ The second Korean War would force military mobilization in the United States. This would initially involve the military's existing reserve component, but it would probably ultimately require a major expansion of the U.S. military and hence a draft. The military's training infrastructure and the defense industrial base would have to grow. This would be a body blow to efforts to cut government spending in the United States and postpone serious deficit reduction for some time, even if Washington increased taxes to help fund the war. Moreover, a second Korean conflict would shock the global economy and potentially have destabilizing effects outside Northeast Asia. ¶ Eventually, though, the United States and its allies would defeat the North Korean military. At that point it would be impossible for the United States to simply re-establish the status quo ante bellum as it did after the first Korean War. The Kim regime is too unpredictable, desperate and dangerous to tolerate. Hence regime change and a permanent ending to the threat from North Korea would have to be America's strategic objective. ¶ China would pose the most pressing and serious challenge to such a transformation of North Korea. After all, Beijing's intervention saved North Korean dictator Kim Il Sung after he invaded South Korea in the 1950s, and Chinese assistance has kept the subsequent members of the Kim family dictatorship in power. Since the second Korean War would invariably begin like the first one -- with North Korean aggression -- hopefully China has matured enough as a great power to allow the world to remove its dangerous allies this time. If the war began with out-of-the-blue North Korean missile strikes, China could conceivably even contribute to a multinational operation to remove the Kim regime. ¶ Still, China would vehemently oppose a long-term U.S. military presence in North Korea or a unified Korea allied with the United States. One way around this might be a grand bargain leaving a unified but neutral Korea. However appealing this might be, Korea might hesitate to adopt neutrality as it sits just across the Yalu River from a China that tends to claim all territory that it controlled at any point in its history. ¶ If the aftermath of the second Korean War is not handled adroitly, the result could easily be heightened hostility between the United States and China, perhaps even a new cold war. After all, history shows that deep economic connections do not automatically prevent nations from hostility and war -- in 1914 Germany was heavily involved in the Russian economy and had extensive trade and financial ties with France and Great Britain. It is not inconceivable then, that after the second Korean War, U.S.-China relations would be antagonistic and hostile at the same time that the two continued mutual trade and investment. Stranger things have happened in statecraft..

#### And, their defense is wrong and outdated —provocations portend a high risk of escalation

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The potential for miscalculation leading to escalation is arguably higher than at any time since the end of the Cold War. The risk of serious conflict between China and Japan over maritime territory in the East China Sea is growing, and the prospect of a naval clash in the South China Sea is real. Yet these threats appear stable when compared with the highly fluid situation on the Korean peninsula. Recent developments appear drearily familiar. The ritualistic North Korean sabre-rattling is countered by carefully crafted signals of extended deterrence intent, which in turn is followed by even more hair-raising statements from Pyongyang that turn out to be mere rhetoric. Why should we be any more concerned than when North Korea struck Yeongpyeong Island in 2010? There is good reason to justify deeper concern over how the current crisis will play out. The obvious grounds are that North Korea has emerged as the world's ninth nuclear weapons state. The significant yield produced by Pyongyang's third nuclear test this year laid to rest any existing doubts its 2009 test was somehow a lucky fluke (the 2006 test was widely acknowledged as a fizzer). Conservative estimates are that North Korea today possesses enough fissile material to build up to eight deployable nuclear warheads. Some "proliferation optimists" still maintain North Korea will be averse to taking risks because nuclear weapons induce caution - this perspective claims that North Korea will not behave any more recklessly than the other eight nuclear powers that preceded it. However, proliferation optimism in the case of North Korea is becoming less convincing day by day. A number of explicit references to using nuclear weapons has appeared in recent North Korean statements. The military high command has openly referred to "precision nuclear striking tools" in comments about reunification and the regime has displayed maps to the outside world with US cities as designated targets. This is hardly evidence of restraint and some searching questions need to be asked about whether we are dealing with a leadership in Pyongyang whose grasp on reality is tenuous at best. The Pyongyang regime's attempts at nuclear coercion have rightly been brushed aside by the US and South Korea, and the strong extended deterrence intent signalled by Washington this week confirms North Korea can expect an overwhelming response should it move to employ nuclear weapons in a crisis. But is the inexperienced Kim Jong-un persuaded by the credibility of US signalling? Emboldened by his possession of nuclear weapons and a missile strike force with an expanding combat radius, the 30-year-old leader is determined to fill the large shoes of his father and may be tempted to initiate low-level conflict to impress hard heads in the upper echelons of his military. Assuming (wrongly) that Washington and Seoul will be deterred from responding out of fear North Korea will escalate further, the young Kim will have no choice but to escalate when his bluff is called. Having made a stand against Pyongyang's aggression, the US and South Korea will be likewise committed to respond. De-escalating without backing down in such circumstances will be close to impossible. Inadvertent escalation to major war, potentially involving nuclear weapons, will be hard to avoid.

#### The current crisis is different — conflict will go nuclear

Lieber and Press 13 (Keir A. Lieber, is an Associate Professor in the Edmund A. Walsh School of Foreign Service and Department of Government at Georgetown University, Daryl G. Press, is an Associate Professor in the Government Department at Dartmouth College and Coordinator of War and Peace Studies at Dartmouth’s John Sloan Dickey Center for International Understanding, Foreign Affairs, 4/1/13, “The Next Korean War”, <http://www.foreignaffairs.com/articles/139091/keir-a-lieber-and-daryl-g-press/the-next-korean-war?page=show>///TS)

As North Korean dictator Kim Jong Un issues increasingly over-the-top threats -- including intimations that he might launch nuclear strikes against the United States -- officials in Washington have sought to reassure the public and U.S. allies. North Korea, they say, may initiate cyberattacks or other limited provocations, but the leaders in Pyongyang wish to survive, so they are highly unlikely to do anything as foolhardy as using nuclear weapons.

Despite those assurances, however, the risk of nuclear war with North Korea is far from remote. Although Pyongyang’s tired threats are probably bluster, the current crisis has substantially increased the risk of a conventional conflict -- and any conventional war with North Korea is likely to go nuclear. Washington should continue its efforts to prevent war on the Korean Peninsula. But equally important, it must rapidly take steps -- including re-evaluating U.S. war plans -- to dampen the risks of nuclear escalation if conventional war erupts.

**advantage 2 – Abstention**

**Failure of the Supreme Court to substantively rule on detention authority causes judicial abstention on national security issues**

**Vaughns 13** (B.A. (Political Science), J.D., University of California, Berkeley, School of Law. Professor of Law, University of Maryland Francis King Carey School of Law.Of Civil Wrongs and Rights: Kiyemba v. Obama and the Meaning of Freedom, Separation of Powers, and the Rule of Law Ten Years After 9/11 ASIAN AMERICAN LAW JOURNAL [Volume 20:7])

After being reversed three times in a row in Rasul, Hamdan, and then Boumediene, the D.C. Circuit finally managed in Kiyemba to reassert, and have effectively sanctioned, its highly deferential stance towards the Executive in cases involving national security. In particular, the D.C. Circuit concluded that an order mandating the Uighurs’ release into the continental United States would impermissibly interfere with the political branches’ exclusive authority over immigration matters. But this reasoning is legal ground that the Supreme Court has already implicitly—and another three-judge panel of the D.C. Circuit more explicitly—covered earlier. As such, **the Bush administration’s strategy in employing the “war” paradigm at all costs and without any judicial intervention**, while unsuccessful in the Supreme Court**, has finally paid off in troubling, and binding, fashion in the D.C. Court of Appeals**, **where, national security fundamentalism reigns supreme and the Executive’s powers as “Commander-in-Chief” can be exercised with little, if any, real check**; arguably **leading to judicial abstention in cases involving national security**. **The consequences of the Kiyemba decision** potentially **continue** today, for example, **with passage of the** **N**ational **D**efense **A**uthorization **A**ct of 2012,246 which President Obama signed, with reservations, into law on December 31, 2011.247 This defense authorization bill contains detainee provisions that civil liberties groups and human rights advocates have strongly opposed.248 The bill’s supporters strenuously objected to the assertion that these provisions authorize the indefinite detention of U.S. citizens.249 In signing the bill, President **Obama later issued a statement to the effect that although he had reservations about some of the provisions, he “vowed to use discretion when applying” them**.250 Of course, **that does not mean another administration would do the same, especially if courts abstain from their role as protectors of individual rights.** In the years after 9/11, **the Supreme Court asserted its role incrementally, slowly entering into the debate about the rights of enemy combatant detainees. This was a “somewhat novel role” for the Court**.251 Unsurprisingly, in so doing, **the Court’s intervention “strengthened detainee rights, enlarged the role of the judiciary, and rebuked broad assertions of executive power**.”252 Also unsurprisingly, **the Court’s decisions in this arena “prompted strong reactions from the other two branches**.”253 This may be so because, as Chief Justice Rehnquist noted, the Court had, in the past, recognized the primacy of liberty interests only in quieter times, after national emergencies had terminated or perhaps before they ever began.254 However, since the twentieth century, wartime has been the “normal state of affairs.”255 If **perpetual war is the new “normal,” the political branches likely will be in a permanent state of alert. Thus, it remains for the courts to exercise vigilance and courage** about protecting individual rights, **even if these assertions of judicial authority come as a surprise to the political branches of government**.256 But courts, like any other institution, are susceptible to being swayed by influences external to the law. Joseph Margulies and Hope Metcalf make this very point in a 2011 article, noting that much of the post-9/11 scholarship mirrors this country’s early wartime cases and “envisions a country that veers off course at the onset of a military emergency but gradually steers back to a peacetime norm once the threat recedes, via primarily legal interventions.”257 This model, they state, “cannot explain a sudden return to the repressive wilderness just at the moment when it seemed the country had recovered its moral bearings.”258 Kiyemba is very much a return to the repressive wilderness. In thinking about the practical and political considerations that inevitably play a role in judicial decisionmaking (or non-decisionmaking, as the case may be), I note that **the Court tends to be reluctant to decide constitutional cases if it can avoid doing so**, as it did in Kiyemba. Arguably, **this doctrine of judicial abstention is tied to concerns of institutional viability**, in the form of public perception, and to concerns about respecting the separation of powers.259 But, as Justice Douglas once famously noted, when considering the separation of powers, the Court should be mindful of Chief Justice Marshall’s admonition that “it is a constitution we are expounding.”260 Consequently, “[i]t is far more important [for the Court] to be respectful to the Constitution than to a coordinate branch of government.”261 And **while brave jurists have made such assertions throughout the Court’s history, the Court is not without some pessimism about its ability to effectively protect civil liberties in wartimes or national emergencies.** For example, in Korematsu—one of the worst examples of judicial deference in times of crisis—Justice Jackson dissented, but he did so “with explicit resignation about judicial powerlessness,” and concern that it was widely believed that “civilian courts, up to and including his own Supreme Court, perhaps should abstain from attempting to hold military commanders to constitutional limits in wartime.”262 Significantly, even when faced with the belief that the effort may be futile, Justice Jackson dissented. As I describe in the following section, that dissent serves a valuable purpose. But, for the moment, I must consider the external influences on the court that resulted in that feeling of judicial futility.

**SCOTUS can restrain the president under authority granted by the Suspension Clause- that ensures precedent setting**

**Garrett 12** (Brandon, Roy L. and Rosamund Woodruff Morgan Professor of Law, University of Virginia School of Law. HABEAS CORPUS AND DUE PROCESSCORNELL LAW REVIEW [Vol. 98:47] page lexis)

T**he relationship between the Suspension Clause and the Due Process Clause has** **sweeping implications for** the **detention** of suspected terrorists and military engagements in multiple countries after September 11, 2001. In Boumediene v. Bush, **the Supreme Court** for the first time **clearly gave the Suspension Clause independent force as an affirmative source of judicial power** to adjudicate habeas petitions **and as a source of meaningful process to prisoners in custody**.15 As a consequence of this decision, **Congress now cannot enact jurisdictions tripping legislation to deny executive detainees access to judicial review of the type that it has twice tried and failed to do in the past decade**.16 A **noncitizen detained as a national security threat may now have procedural rights to contest the detention**.17 **Even as the Executive has crafted nuanced positions on power and procedure** for detaining persons for national security reasons, an**d even as Congress has adopted new detention-authorizing legislation,**1**8 the judiciary continues to play a central role,** though sometimes unwillingly and deferentially, **in detention review**.19 Apart from these specific developments, **I argue that the reinvigorated Suspension Clause jurisprudence will continue to have ripple effects across all areas regulated by habeas corpus.** What process must the government use to ensure that it detains the correct people? The traditional assumption was that the Due Process Clause provided the answers. Judges and scholars described a functional relationship in which due process supplied the rights while habeas provided the procedural means to vindicate them. Justice Antonin Scalia expressed this view in its starkest form in his INS v. St. Cyr dissent, arguing that the Suspension Clause “does not guarantee any content to (or even the existence of) the writ of habeas corpus.”20 Judges and scholars have long assumed that due process offers more protections than habeas corpus, or that the substance of habeas is coextensive with the Due Process Clause.21 Others have suggested that the Suspension Clause has a “structural” role, entwined with other individual rights guarantees.22 **The U.S. government, in the wake of** the **September 11, 2001** attacks, ad**opted the view that noncitizens captured and detained abroad had no due process rights and thus no habeas remedy**, and the D.C. Circuit agreed.23 In two cases that reshaped habeas jurisprudence, **Hamdi** v. Rumsfeld, decided in 2004,24 a**nd Boumediene**, decided in 2008,25 the Court connected the Suspension Clause and the Due Process Clause in a new way. Hamdi seemed to indicate that the Due Process Clause approach had triumphed. The Hamdi plurality applied the cost-benefit due process test from Mathews v. Eldridge26 to outline the procedural rights of citizens who challenge their detention.27 Following Hamdi, the precise scope of what due process required seemed the “looming question” for the future of executive detention.28 In response, the government hastily implemented administrative screening procedures for detainees, ostensibly to comply with the bare minimum that due process appeared to require.29 In Boumediene, the Court chose a different constitutional path. The Court did not discuss whether Guant´anamo detainees had due process rights, but instead held that the Suspension Clause independently supplies process to ensure review of executive detention.30 T**he Court put to rest the notion that the Suspension Clause is an empty vessel and regulates only the conditions for congressional suspension of the writ**. Instead, th**e Court held that the Suspension Clause itself extended “the fundamental procedural protections of habeas corpus.**”31 The Court’s view complements recent scholarship examining the common law origins of habeas corpus.32 However, w**hile an- swering the Suspension Clause question, the ruling created another puzzle.** T**he Court held that a prisoner should have a “meaningful opportunity” to demonstrate unlawful confinement, but it did not specify what process the Suspension Clause ensures, nor to what degree due process concerns influence the analys**is.33 Lowe**r court rulings elaborating on the process for reviewing detainee petitions have displayed confusion as to which sources to rely on.**34 This Article tries to untangle this important knot.

**Judicial abstention 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 counse**l. 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**.

**Presidential adventurism causes nuclear war**

**Symonds 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, 4-5, “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**.

**Arms sales increase the probability of regional conflict and leads to US-Russia-China escalation**

**Klare 13** (Michael Klare is a professor of peace and world security studies at Hampshire College The Booming Global Arms Trade Is Creating a New Cold War http://www.motherjones.com/politics/2013/05/global-arms-trade-new-cold-war)

These are just some examples of **recent arms deal**s (or ones under discussion) that **suggest a fresh willingness** on the part of the major powers **to use weapons transfers as instruments of geopolitical intrusion and competition**. **The reappearance of such behavior suggests a troubling resurgence of** **Cold War-like rivalries**. Even if senior leaders in **Washington, Moscow, and Beijing** are not talking about resurrecting some twenty-first-century version of the Cold War, **anyone with a sense of history can see** that **they are headed down a grim**, well-trodden **path toward crisis and confrontation**. What gives this an added touch of irony is that **leading arms suppliers and recipients, including the** **U**nited **S**tates, recently [**voted**](http://www.nytimes.com/2013/04/03/world/arms-trade-treaty-approved-at-un.html)in the U.N. General Assembly **to approve the** [**Arms Trade Treaty**](http://www.un.org/disarmament/ATT/) that was meant to impose significant constraints on the global trade in conventional weapons. Although **the treaty has many loopholes, lacks an enforcement mechanism, and will require years to achieve full implementation**, it represents the first genuine attempt by the international community to place real restraints on weapons sales. "This treaty won't solve the problems of Syria overnight, no treaty could do that, but it will help to prevent future Syrias," [said](http://www.nytimes.com/2013/04/03/world/arms-trade-treaty-approved-at-un.html) Anna MacDonald, the head of arms control for [Oxfam International](http://www.oxfam.org/) and an ardent treaty supporter. "It will help to reduce armed violence. It will help to reduce conflict." This may be the hope, but such **expectations will quickly be crushed if the major weapons suppliers, led by the US** and Russia, once again **come to see arms sales as the tool of choice to gain geopolitical advantage in areas of strategic importance**. **Far from bringing peace and stability**—as the proponents of such transactions invariably claim—**each new arms deal now holds the possibility of taking us another step closer to a new Cold War with all the heightened risks of regional friction and conflict that entails**. Are we, in fact, seeing a mindless new example of the old saw: that those who don't learn from history are destined to repeat it?

**Risk of accidental exchange between the US and Russia over external crises is still high and risks extinction**

**Barrett et al. 13** (Anthony M. Barrett- Global Catastrophic Risk Institute, Seth D. Baum- Center for Research on Environmental Decisions, Columbia University, Kelly R. Hostetler- Department of Geography, Pennsylvania State University, 2013, “Analyzing and Reducing the Risks of Inadvertent Nuclear War Between the United States and Russia”, http://sethbaum.com/ac/fc\_NuclearWar.pdf)

**War involving significant fractions of the U.S. and Russian nuclear arsenals**, which are by far the largest of any nations, **could have globally catastrophic effects such as severely reducing food production for years**, 1,2,3,4,5,6 potentially **leading to collapse of modern civilization worldwide and even the extinction of humanity**. 7,8,9,10 **Nuclear war between the US and Russia could occur by various routes, including accidental or unauthorized launch**; deliberate first attack by one nation; **and inadvertent attack**. In an accidental or unauthorized launch or detonation, system safeguards or procedures to maintain control over nuclear weapons fail in such a way that a nuclear weapon or missile launches or explodes without direction from leaders. In a deliberate first attack, the attacking nation decides to attack based on accurate information about the state of affairs**. In an inadvertent attack, the attacking nation mistakenly concludes that it is under attack and launches nuclear weapons in what it believes is a counterattack**. 11,12 (**Brinkmanship strategies incorporate elements of all of the above, in that they involve deliberate manipulation of the risk of otherwise unauthorized or inadvertent attack as part of coercive threats that “leave something to chance,”** i.e., “**taking steps that raise the risk that the crisis will go out of control and end in a general nuclear exchange.”** 13,14 ) Over the years, nuclear strategy was aimed primarily at minimizing risks of intentional attack through development of deterrence capabilities, though numerous measures were also taken to reduce probabilities of accidents, unauthorized attack, and inadvertent war. 15,16,17 For purposes of deterrence, both U.S. and Soviet/Russian forces have maintained significant capabilities to have some forces survive a first attack by the other side and to launch a subsequent counter-attack. However, concerns about the extreme disruptions that a first attack would cause in the other side’s forces and command-and-control capabilities led to both sides’development of capabilities to detect a first attack and launch a counter-attack before suffering damage from the first attack. 18,19,20 Many people believe that with the end of the Cold War and with improved relations between the United States and Russia, the risk of East-West nuclear war was significantly reduced. 21,22 However, it has also been argued that **inadvertent nuclear war between the United States and Russia has continued to present a substantial risk**. 23,24,25,26,27,28,29,30,31,32,**33 While the United States and Russia are not actively threatening each other with war, they have remained ready to launch nuclear missiles in response to indications of attack**. 34,35,36,37,38 **False indicators of nuclear attack could be caused in several ways**. First, a wide range of events have already been mistakenly interpreted as indicators of attack, including weather phenomena, a faulty computer chip, wild animal activity, and control-room training tapes loaded at the wrong time. 39 Second, terrorist groups or other actors might cause attacks on either the United States or Russia that resemble some kind of nuclear attack by the other nation by actions such as exploding a stolen or improvised nuclear bomb, 40,41,42 especially if such an event occurs during a crisis between the United States and Russia. 43 A variety of nuclear terrorism scenarios are possible. 44 Al Qaeda has sought to obtain or construct nuclear weapons and to use them against the United States. 45,46,47 Other methods could involve attempts to circumvent nuclear weapon launch control safeguards or exploit holes in their security. 48,**49 It has long been argued that the probability of inadvertent nuclear war is significantly higher during U.S.-Russian crisis conditions**, 50,51,52,53 **with the Cuban Missile Crisis being a prime historical example of such a crisis**. 54,55,56,57,58 **It is possible that U.S.-Russian relations will significantly deteriorate in the future, increasing nuclear tensions**. 59 **There are a variety of ways for a third party to raise tensions between the United States and Russia, making one or both nations more likely to misinterpret events as attacks**. 60,61,62,63

**China war causes extinction- even with a swift victory**

**Wittner 11** (11/30/11 Dr. Lawrence, Prof of History Emeritus at SUNY Albany, “Is a Nuclear War with China Possible?”)

But what would that "victory" entail? **An attack with these Chinese nuclear weapons would immediately slaughter at least 10 million Americans in a great storm of blast and fire,** **while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher**. Both nations would be reduced to smoldering, radioactive wastelands. Also, **radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a "nuclear winter" around the globe** -- **destroying agriculture, creating worldwide famine, and generating chaos and destruction**. Moreover, in another decade the extent of this catastrophe would be far worse. The Chinese government is currently expanding its nuclear arsenal, and by the year 2020 it is [expected](http://www.nukestrat.com/china/Book-35-125.pdf) to more than double its number of nuclear weapons that can hit the United States. The U.S. government, in turn, has [plans](http://www.guardian.co.uk/world/2011/oct/30/nuclear-powers-weapons-spending-report) to spend hundreds of billions of dollars "modernizing" its nuclear weapons and nuclear production facilities over the next decade.

**solvency**

#### Detention policy is incomprehensible in the status quo- only Supreme Court rulings send a clear judicial review test for lower court judges and spills over to effective Congressional policy

Garrett 12 (Brandon, Roy L. and Rosamund Woodruff Morgan Professor of Law, University of Virginia School of Law. HABEAS CORPUS AND DUE PROCESSCORNELL LAW REVIEW [Vol. 98:47] page lexis)

The Suspension Clause casts a broad shadow over the regulation of all forms of detention. It has exerted direct and indirect influence even in contexts where statutes largely supplant habeas corpus as the primary vehicle for judicial review. The Executive, courts, and Congress have long been concerned with avoiding Suspension Clause problems, and the Supreme Court’s own sometimes-carried-out warnings that it will narrowly interpret efforts to restrict judicial review to avoid potential Suspension Clause problems have, many years before Boumediene, helped to structure judicial review of detention. I have argued that the Suspension Clause explains why, as the Court put it in INS v. St. Cyr, “[a]t its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.”451 Post- Boumediene, judges may rely on the Suspension Clause more directly, and not just as a principle of constitutional avoidance. Understanding the Suspension Clause as affirmatively guaranteeing a right to habeas process to independently examine the authorization for a detention helps to explain habeas and constitutional doctrine across a range of areas. Why does habeas corpus sometimes provide access to process unavailable under the Due Process Clause, while sometimes due process provides more process than habeas would? At its core, habeas corpus provides judges with process in situations where the need for review of legal and factual questions surrounding detention is most pressing. This view of habeas process can be seen as related to the Court’s long line of decisions that guarantee a “right of access” to courts without clarifying the source of that “[s]ubstantive [r]ight.”452 In Boumediene, the Court grounded that right in the Suspension Clause. This basis for the right makes some sense of the varied nature of habeas review in which statutes and case law differ depending on the type of detention. Judicial review does not vary categorically; for example, immigration does not receive less review than postconviction or military detention habeas. Instead, judicial review varies within each category. This is the product of evolving executive detention policies, varying postconviction practice, and changes over time in federal statutes, some poorly conceived and some sensible. No one actor provides coherence to habeas practice at any time, and some of the statutes are notoriously Byzantine, poorly drafted, and illogical. Judges have long played, however, an important role in interpreting the writ (and the underlying constitutional rights). Indeed, for some time, the Supreme Court’s interventions have reinforced the role habeas plays, particularly in the executive detention context. In response to the Court’s habeas rulings, which generally avoid defining the precise reach of the Suspension Clause, Congress has drafted statutes to preserve judicial review of detentions in an effort to steer clear of Suspension Clause problems, with mixed results.

Ruling on the Suspension Clause ensures judicial review over all executive detention- prevents circumvention and ensures due process rights

Garrett 12 (Brandon, Roy L. and Rosamund Woodruff Morgan Professor of Law, University of Virginia School of Law. HABEAS CORPUS AND DUE PROCESSCORNELL LAW REVIEW [Vol. 98:47] page lexis)

The Suspension Clause has long cast a shadow over the regulation of detention. Now the Supreme Court has brought the Clause out of the shadows, giving it substance. It does not merely describe when the government may suspend the writ, nor does it solely reflect an important principle of constitutional avoidance in interpreting statutes that restrict judicial review of detention. Instead, the Clause affirmatively offers a simple but powerful form of process to detainees. Moreover, the Court emphasized a Suspension Clause concern with both legal and factual error. This Article has explored this new understanding of the Suspension Clause in light of the changing and unsettled relationship between two complex areas of law: due process and habeas corpus. Both “due process and habeas corpus are quite general, amorphous, and capacious” in their content.508 Despite ring- ing language uniting habeas and due process in a tradition dating back to Magna Carta, habeas and due process cover importantly different terrain. The Suspension Clause supplies process in circumstances where the Due Process Clause does not apply, while due process has varied applications outside areas covered by habeas corpus. In executive detentions, however, the Suspension Clause plays an outsized role. Taken seriously, the Court in Hamdi and Boumediene forged a relationship between the Suspension Clause and the Due Process Clause. Nelson Tebbe and Robert Tsai examined what circumstances justify “constitutional borrowing” and noted concerns where there is a lack of fit, a lack of transparency, and incomplete application from one area of constitutional law to another.509 In *Boumediene*, the Court was careful not to explicitly borrow due process standards. The Court’s caution was justified. While due process analysis focuses on adequacy of procedures, habeas process provides the authority for judges to examine the factual and legal authorization for detention. Though habeas process may be “skeletal” in its outlines, both at common law and in modern federal statutes, it provides judges a powerful tool. In significant ways, complex and sometimes poorly conceived distinctions in statutes nevertheless respect core habeas process, in part due to the judicial interventions. I have argued that *Boumediene* was no innovation, but rather it followed the longstanding view that habeas is at its most expansive concerning detention without a trial. The Suspension Clause demands that habeas corpus remain in full force where there was no adequate prior judicial process, particularly in the context of indefinite detentions. This places the judiciary in the uncomfortable position of reviewing broad congressional authorizations for detentions and changing executive procedures in factually and legally contested detainee petitions. Thrust into that difficult role, lower courts have often relied upon inapposite sources, hewing to some vision of a bare constitutional minimum rather than providing a meaningful habeas process. The D.C. Circuit approves a standard of proof that is too lenient as defined, if not also in application. Its approach unduly limits discovery and uses an odd harmless error rule. In other respects, rulings have done a better job harmonizing evidentiary and criminal procedure rules with habeas process. Careful application could avoid unfortunate rulings, with an exception: the decision not to extend habeas to Bagram was partially due to Boumediene’s misstep in adopting a multifactored jurisdictional test.510 Congress has preserved the central role of the judiciary in the contest over what procedures should govern review of national security detention. Although the National Defense Authorization Act for Fiscal Year 2012 contains broad authorization for detention, it does not alter or address procedural aspects of judicial review, despite calls to do so.511 Perhaps Congress has reached a stable equilibrium. Judges’ approaches to future detentions and detention legislation in future conflicts will focus on the Suspension Clause question. If Congress centers review in an enhanced version of CSRTs, if POWs receive military hearings and demand access to habeas, or if Congress creates a national security court with Article III judges but streamlined procedure, courts will ask whether each is an adequate and effective substitute for habeas, and not simply whether general procedures satisfy due process. In some cases, the answer might be the same under a habeas or due process approach, but only if judges retain the power to adequately review authorization for detentions. Moreover, *Boumediene* will continue to impact all of habeas corpus, ranging from judicial review under immigration statutes to central questions in postconviction law, including actual-innocence claims. The connection between habeas corpus and due process has been long celebrated. Daniel Meador heralded how “[f]lexibility to meet new problems is one of the characteristics of both due process and habeas corpus, and the value of the habeas corpus—due process combination as protection against arbitrary imprisonment—can hardly be exaggerated.”512 Yet the virtues of flexibility include the vices of malleability. The Suspension Clause jurisprudence forged in the wake of Hamdi and Boumediene suggests that connecting habeas corpus and due process requires great care. The structural role of the Suspension Clause is now firmly established. Contrary to expectations, after exerting its influence in the shadows for so long, the Clause anchors a process animating the operation of far-flung aspects of habeas corpus, ranging from military detention, to immigration detention, to postconviction review. While due process and habeas corpus overlap in some of the protections they provide, a judge asks different questions when examining a due process claim versus a habeas challenge to custody. A judge examining a due process claim will focus on the general adequacy of the procedures employed. A judge examining a habeas challenge will focus on the legal and factual authorization of an individual detention, and in more troubling cases, on the larger Suspension Clause question of whether federal judges have an adequate and effective ability to examine that question of authorization. The roles of habeas and due process are distinct and in important respects they share an inverse relationship—habeas corpus can fill the breach when due process is inadequate. The Suspension Clause ensures that habeas corpus serves a powerful, independent, and unappreciated role standing alone.

Failing 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

**Observer effect solves- assumes all of their empirics and warrants**

**Deeks 13** (Ashley, Ashbley Deeks served as an attorney-adviser in the Office of the Legal Adviser at the U.S. Department of State. She worked on issues related to the law of armed conflict, including detention, the U.S. relationship with the International Committee of the Red Cross, conventional weapons, and the legal framework for the conflict with al-Qaeda. Courts Can Influence National Security Without Doing a Single Thing <http://www.newrepublic.com/article/115270/courts-influence-national-security-merely-watching>)

**While courts rarely intervene directly in national security** disputes, **they nevertheless play a significant role in shaping** Executive branch **security policies**. **Let’s call this the “observer effect.”** Physics teaches us that observing a particle alters how it behaves. Through psychology, we know that **people act differently when they are aware that someone is watching them**. In the national security context, **the “observer effect” can be thought of as the impact on** **Executive policy-setting** **of** pending or **probable court consideration of a** specific national security p**olicy**. The Executive’s **awareness of likely judicial oversight** over particular national security policies—an awareness that ebbs and flows—**plays a significant role as a forcing mechanism.** **It drives the Executive to alter**, disclose, and improve those **policies before courts actually review them.** **Take, for example, U.S. detention policy in Afghanistan**. **After several detainees held by the** **U**nited **S**tates **asked U.S courts to review** their **detention, the Executive changed its policies to give detainees** in Afghanistan **a greater ability to appeal** their detention—a change made in response to the pending litigation and in an effort to avoid an adverse decision by the court. The Government went on to win the litigation. A year later, the detainees re-filed their case, claiming that new facts had come to light. Just before the government’s brief was due in court, the process repeated itself, with the Obama Administration revealing another rule change that favored the petitioners. Exchanges between detainees and their personal representatives would be considered confidential, creating something akin to the attorney-client privilege. Thus **we see the Executive shifting its policies in a more rights-protective direction without a court ordering it to do so.**

#### No executive circumvention

Green 11 (Craig, Prof of Law at Temple Unviersity , Northwestern University Law Review, Vol 105, No 3"Ending the Korematsu Era: An Early View From the War on Terror Cases")

Jackson’s hard-nosed analysis may seem intellectually bracing, but it understates the real-world power of judicial precedent to shape what is po- litically possible.306 Although presidential speeches occasionally declare a willingness to disobey Supreme Court rulings, actual disobedience of this sort is rare and would carry grave political consequences.307 Even President Bush’s losses in the GWOT cases did not spur serious consideration of noncompliance despite broad support from a Republican Congress.308 Likewise, from the perspective of strengthening presidential power, Kore- matsu-era decisions emboldened President Bush in his twenty-first-century choices about Guantánamo and military commissions.309 Thus, the modern historical record shows that judicial precedent can both expand and restrict the political sphere of presidential action.¶ The operative influence of judicial precedent is even stronger than a court-focused record might suggest, as the past sixty years have witnessed a massive bureaucratization and legalization of all levels of executive gov- ernment.310 From the White House Counsel, to the Pentagon, to other enti- ties addressing intelligence and national security issues, lawyers now occupy such high-level governmental posts that almost no significant policy is determined without multiple layers of legal review.311 And these execu- tive lawyers are predominantly trained to think—whatever else they may believe—that Supreme Court precedent is authoritative and binding.312

## 2AC

### Afghanistan

#### Credible rule of law promotion is modelled by Latin America and is key to stability

Cooper, 08 (James, Institute Professor of Law and an Assistant Dean at California Western School of Law, "COMPETING LEGAL CULTURES AND LEGAL REFORM: THE BATTLE OF CHILE," 29 Mich. J. Int'l L. 501, lexis)

The legal transplantation process involves, by its very nature, the adoption of, adaptation n57 to, incorporation of, or reference to legal cultures from abroad. n58 Judges, along with other actors in the legal [\*512] sector - including prosecutors, justice ministry officials, judicial councils, supreme courts, law school professors, ombudspeople, and public defenders - often look to rules, institutions, and jurisprudence from other countries, particularly to those from similar legal traditions and Anglo-Saxon or other legal cultures. n59 Professor Alan Watson contends that "legal transplants [are] the moving of a rule or a system of law from one country to another, or from one people or another since the earliest recorded history." n60 For many centuries, the legal codes and legal cultures that were established in Latin America were products of the colonial experience with Spain and Portugal. n61 Prior to independence, laws were merely imposed on the territories of the colonial powers. Spain, through the legal culture it transplanted during colonial times, enjoyed a consistent influence on the New World in the Americas. n62 In the colonies, "the Spanish judiciary was given almost no autonomy and continued to depend on the Crown's scholarly-inspired statutes with limited reflection of the principles, customs and values arising from Spain's diverse regions." n63 After independence in the early part of the nineteenth century, however, legal models from other countries like the United Kingdom and the United States soon found receptive homes in the southern parts of the Western Hemisphere. n64 Statutes, customs, and legal processes were [\*513] transplanted in a wholesale fashion, themselves the product of French influence over the codification process. n65 For much of the twentieth century - at least until the early 1980s - most governments in Latin America pursued policies of economic nationalism, including import substitution and controls on capital flows. Latin American governments closed markets to foreign competition and pursued state intervention. n66 When these policies failed, they resulted in economic stagnation, hyperinflation, and the erosion of living standards. n67 International bond defaults in the early 1980s produced military dictatorships and oppressive regimes simultaneously throughout Latin [\*514] America. The region was ready for a change. n68 In exchange for the adoption of certain rules and regulations concerning the functioning of markets, and some strengthening of democratic institutions, the international financial community lent money to these nascent democracies in an attempt to encourage a set of "neoliberal" policies - the so-called Washington Consensus. n69 Privatization of state assets was a central part of the prescription. n70 Deregulation, the opening of markets to foreign competition, and the lowering of barriers to trade were also recommended policies. n71 These policies - involving the flow of capital, intellectual property, technology, professional services, and ideas - require that disputes be settled fairly and by a set of recognized and enforced laws. n72 The rule of law, after all, provides the infrastructure upon which democracies may thrive, because it functions to enforce property rights and contracts. n73 [\*515] Likewise, the rule of law is the foundation for economic growth and prosperity: n74 Law is a key element of both a true and a stable democracy and of efficient economic interaction and development both domestically and internationally ... . The quality and availability of court services affect private investment decision and economic behavior at large, from domestic partnerships to foreign investment. n75 Foreign businesses that invest or do business abroad want to ensure that their intellectual property, shareholder, capital repatriation, contract, and real property rights will be protected. n76 It is not surprising, then, that in [\*516] the aftermath of the economic reforms, or at times concurrently, there also have been efforts to implement new criminal procedures, protect human and civil rights, and increase access to justice. n77 Economic growth and sustainable development require a functioning, transparent, and efficient judicial sector. n78 "It is not enough to build highways and factories to modernize a State ... a reliable justice system - the very basis of civilization - is needed as well." n79 Without the rule of law, corruption in the tendering regimes was rampant, encouraging the looting of national treasuries, n80 the exploitation of labor, and the polluting of the environment. n81 As Professor Joseph Stiglitz sadly points out, "The market [\*517] system requires clearly established property rights and the courts to enforce them; but often these are absent in developing countries." n82 A healthy and independent judicial power is also one third of a healthy democratic government. n83 Along with the executive and legislative branches, the judicial branch helps form the checks and balances to allow for an effective system of governance. Instead, what has resulted over the last few decades in many Latin American governments is a breakdown in the rule of law: a judiciary unable to change itself, virtual impunity from prosecution, judicial officers gunned down, and the wholesale interference with the independence of the judicial power. The judiciary is not as independent as the other two branches of government. n84 Instead, the judiciary functions as part of the civil service: devoid of law-making abilities, merely a slot machine for justice that applies the various codes. n85

#### Instability causes disease

Manwaring, 05 (Max G., Retired U.S. Army colonel and an Adjunct Professor of International Politics at Dickinson College, October 2005, <http://www.strategicstudiesinstitute.army.mil/pdffiles/pub628.pdf>)

President Chávez also understands that the process leading to state failure is the most dangerous long-term security challenge facing the global community today. The argument in general is that failing and failed state status is the breeding ground for instability, criminality, insurgency, regional conflict, and terrorism. These conditions breed massive humanitarian disasters and major refugee flows. They can host “evil” networks of all kinds, whether they involve criminal business enterprise, narco-trafficking, or some form of ideological crusade such as Bolivarianismo. More specifically, these conditions spawn all kinds of things people in general do not like such as murder, kidnapping, corruption, intimidation, and destruction of infrastructure. These means of coercion and persuasion can spawn further human rights violations, torture, poverty, starvation, disease, the recruitment and use of child soldiers, trafficking in women and body parts, trafficking and proliferation of conventional weapons systems and WMD, genocide, ethnic cleansing, warlordism, and criminal anarchy. At the same time, these actions are usually unconfined and spill over into regional syndromes of poverty, destabilization, and conflict .62 Peru’s Sendero Luminoso calls violent and destructive activities that facilitate the processes of state failure “armed propaganda.” Drug cartels operating throughout the Andean Ridge of South America and elsewhere call these activities “business incentives.” Chávez considers these actions to be steps that must be taken to bring about the political conditions necessary to establish Latin American socialism for the 21st century.63 Thus, in addition to helping to provide wider latitude to further their tactical and operational objectives, state and nonstate actors’ strategic efforts are aimed at progressively lessening a targeted regime’s credibility and capability in terms of its ability and willingness to govern and develop its national territory and society. Chávez’s intent is to focus his primary attack politically and psychologically on selected Latin American governments’ ability and right to govern. In that context, he understands that popular perceptions of corruption, disenfranchisement, poverty, and lack of upward mobility limit the right and the ability of a given regime to conduct the business of the state. Until a given populace generally perceives that its government is dealing with these and other basic issues of political, economic, and social injustice fairly and effectively, instability and the threat of subverting or destroying such a government are real.64 But failing and failed states simply do not go away. Virtually anyone can take advantage of such an unstable situation. The tendency is that the best motivated and best armed organization on the scene will control that instability. As a consequence, failing and failed states become dysfunctional states, rogue states, criminal states, narco-states, or new people’s democracies. In connection with the creation of new people’s democracies, one can rest assured that Chávez and his Bolivarian populist allies will be available to provide money, arms, and leadership at any given opportunity. And, of course, the longer dysfunctional, rogue, criminal, and narco-states and people’s democracies persist, the more they and their associated problems endanger global security, peace, and prosperity.65

#### Disease spread leads to extinction

**Greger 08 –** M.D., is Director of Public Health and Animal Agriculture at The Humane Society of the United States (Michael Greger, Bird Flu: A Virus of Our Own Hatching, <http://birdflubook.com/a.php?id=111>)

Senate Majority Leader Frist describes the recent slew of emerging diseases in almost biblical terms: “All of these [new diseases] were advance patrols of a great army that is preparing way out of sight.”3146 Scientists like Joshua Lederberg don’t think this is mere rhetoric. He should know. Lederberg won the Nobel Prize in medicine at age 33 for his discoveries in bacterial evolution. Lederberg went on to become president of Rockefeller University. “Some people think I am being hysterical,” he said, referring to pandemic influenza, “but there are catastrophes ahead. We live in evolutionary competition with microbes—bacteria and viruses. There is no guarantee that we will be the survivors.”3147 There is a concept in host-parasite evolutionary dynamics called the Red Queen hypothesis, which attempts to describe the unremitting struggle between immune systems and the pathogens against which they fight, each constantly evolving to try to outsmart the other.3148 The name is taken from Lewis Carroll’s Through the Looking Glass in which the Red Queen instructs Alice, “Now, here, you see, it takes all the running you can do to keep in the same place.”3149 Because the pathogens keep evolving, our immune systems have to keep adapting as well just to keep up. According to the theory, animals who “stop running” go extinct. So far our immune systems have largely retained the upper hand, but the fear is that given the current rate of disease emergence, the **human race is losing the race**.3150 In a Scientific American article titled, “Will We Survive?,” one of the world’s leading immunologists writes: Has the immune system, then, reached its apogee after the few hundred million years it had taken to develop? Can it respond in time to the new evolutionary challenges? These perfectly proper questions lack sure answers because we are in an utterly unprecedented situation [given the number of newly emerging infections].3151 The research team who wrote Beasts of the Earth conclude, “Considering that bacteria, viruses, and protozoa had a more than two-billion-year head start in this war, a victory by recently arrived Homo sapiens would be remarkable.”3152 Lederberg ardently believes that emerging viruses may imperil human society itself. Says NIH medical epidemiologist David Morens, When you look at the relationship between bugs and humans, the more important thing to look at is the bug. When an enterovirus like polio goes through the human gastrointestinal tract in three days, its genome mutates about two percent. That level of mutation—two percent of the genome—has taken the human species eight million years to accomplish. So who’s going to adapt to whom? Pitted against that kind of competition, Lederberg concludes that the human evolutionary capacity to keep up “may be dismissed as almost totally inconsequential.”3153 To help prevent the evolution of viruses as threatening as H5N1, the least we can do is take away a few billion feathered test tubes in which viruses can experiment, a few billion fewer spins at pandemic roulette. The human species has existed in something like our present form for approximately 200,000 years. “Such a long run should itself give us confidence that our species will continue to survive, at least insofar as the microbial world is concerned. Yet such optimism,” wrote the Ehrlich prize-winning former chair of zoology at the University College of London, “might easily transmute into a tune whistled whilst passing a graveyard.”3154

### 2AC-Role of the ballot

#### Extinction first – always VTL

Bernstein ‘2

(Richard J., Vera List Prof. Phil. – New School for Social Research, “Radical Evil: A Philosophical Interrogation”, p. 188-192)

There is a basic value inherent in **organic** being, a basic affirmation, "The Yes' of Life" (IR 81). 15 "The self-affirmation of being becomes emphatic in the opposition of life to death. Life is the explicit confrontation of being with not-being. . . . The 'yes' of all striving is here sharpened by the active `no' to not-being" (IR 81-2). Furthermore — and this is the crucial point for Jonas — this affirmation of life that is in all organic being has a binding obligatory force upon human beings. This blindly self-enacting "yes" gains obligating force in the seeing freedom of man, who as the supreme outcome of nature's purposive labor is no longer its automatic executor but, with the power obtained from knowledge, can become its destroyer as well. He must adopt the "yes" into his will and impose the "no" to not-being on his power. But precisely this transition from willing to obligation is the critical point of moral theory at which attempts at laying a foundation for it come so easily to grief. Why does now, in man, that become a duty which hitherto "being" itself took care of through all individual willings? (IR 82). We discover here the transition from is to "ought" — from the self-affirmation of life to the binding obligation of human beings to preserve life not only for the present but also for the future. But why do we need a new ethics? The subtitle of The Imperative of Responsibility — In Search of an Ethics for the Technological Age — indicates why we need a new ethics. Modern technology has transformed the nature and consequences of human action so radically that the underlying premises of traditional ethics are no longer valid. For the first time in history human beings possess the knowledge and the power to destroy life on this planet, including human life. Not only is there the new possibility of total nuclear disaster; there are the even more invidious and threatening possibilities that result from the unconstrained use of technologies that can destroy the environment required for life. The major transformation brought about by modern technology is that the consequences of our actions frequently exceed by far anything we can envision. Jonas was one of the first philosophers to warn us about the unprecedented ethical and political problems that arise with the rapid development of biotechnology. He claimed that this was happening at a time when there was an "ethical vacuum," when there did not seem to be any effective ethical principles to limit ot guide our ethical decisions. In the name of scientific and technological "progress," there is a relentless pressure to adopt a stance where virtually anything is permissible, includ-ing transforming the genetic structure of human beings, as long as it is "freely chosen." We need, Jonas argued, a new categorical imperative that might be formulated as follows: "Act so that the effects of your action are compatible with the permanence of genuine human life"; or expressed negatively: "Act so that the effects of your action are not destructive of the future possibility of such a life"; or simply: "Do not compromise **the conditions for** an indefinite continuation of humanity on earth**"; or again turned positive:** "In your present choices, include the future wholeness of Man among the objects of your will."

### 2AC-Anthro

#### Human-centered ethics necessitate protecting the environment—change is possible without adopting a bio-centric ethic

**Hwang 03**

[Kyung-sig Hwang, 2003. Professor in the Department of Philosophy at Seoul National University. “Apology for Environmental Anthropocentrism,” Asian Bioethics in the 21st Century, http://eubios.info/ABC4/abc4304.htm]

The third view, which will be defended here, is that there is no need for a specifically ecological ethic to explain our obligations toward nature, that our moral rights and duties **can satisfactorily be explained in terms of traditional, human-centered ethical theory**.[4] In terms of this view, ecology bears on ethics and morality in that it brings out the far-reaching, extremely important effects of man's actions, that much that seemed simply to happen-extinction of species, depletion of resources, pollution, over rapid growth of population, undesirable, harmful, dangerous, and damaging uses of technology and science - is due to human actions that are controllable, preventable, by men and hence such that men can be held accountable for what occurs. Ecology brings out that, often acting from the best motives, however, simply from short-sighted self-interest without regard for others living today and for those yet to be born, brings about very damaging and often irreversible changes in the environment, changes such as the extinction of plant and animal species, destruction of wilderness and valuable natural phenomena such as forests, lakes, rivers, seas. Many reproduce at a rate with which their environment cannot cope, so that damage is done, to and at the same time, those who are born are ill-fed, ill-clad, ill-sheltered, ill-educated. Moralists concerned with the environment have pressed the need for a basic rethinking of the nature of our moral obligations in the light of the knowledge provided by ecology on the basis of personal, social, and species prudence, as well as on general moral grounds in terms of hitherto unrecognized and neglected duties in respect of other people, people now living and persons yet to be born, those of the third world, and those of future generation, and also in respect of preservation of natural species, wilderness, and valuable natural phenomena. Hence we find ecological moralists who adopt this third approach, writing to the effect that concern for our duties entail concern for our environment and the ecosystems it contains. Environmental ethics is concerned with the moral relation that holds between humans and the natural world, the ethical principles governing those relations determine our duties, obligations, and responsibilities with regard to the earth's natural environment and all the animals and plants inhabit it. A **human-centered theory of environmental ethics** holds that our moral duties with respect to the natural world are all **ultimately derived from the duties we owe to one another as human beings**. It is because we should respect the human rights, or should protect and promote the well being of humans, that we must place certain constraints on our treatment of the earth's environment and its non-human habitants.[5]

#### Perm do both- “reflexive” anthropocentrism solves your impact and is more viable than pure rejection.

**Barry 99** (John politics lecturer Keele University,RETHINKING GREEN POLITICS, 1999, p. 7-8)

1. Ecological stewardship, unlike ecocentrism, seeks to emphasize that **a self-reflexive, long-term anthropocentrism**, as opposed to an 'arrogant' or 'strong' anthropocentrism **can secure many of the policy objectives of ecocentrism**, in terms of environmental preservation and conservation. As argued in Chapter 3, a reformed, **reflexive anthropocentrism is premised on critically evaluating human uses of the non-human world**, and distinguishing 'permissible' from 'impermissible' uses. That is, an 'ethics of use', though anthropocentric and rooted in human interests, seeks to regulate human interaction with the environment by distinguishing legitimate 'use' from unjustified 'abuse'. **The premise for this defence of anthropocentric moral reasoning is that an immanent critique of 'arrogant humanism' is a much more defensible and effective way to express mere moral concerns than rejecting anthropocentrism and developing a 'new ecocentric ethic'.** As discussed in Chapters 2 and **3,** ecocentric demands are premised on an over-hasty dismissal of anthropocentrism which precludes recognition of the positive resources within anthropocentrism for developing an appropriate and practicable moral idiom to cover social-environmental interaction.

**C) alt impossible- Humans can’t view the world through a non-human lens.**

**Gillespie ’98** (Alexander, “International Environmental Law, Policy, and Ethics”)

An anthropocentric environmental ethic grants moral standing exclusively to human beings and considers nonhuman natural entities and nature as a whole to be only a means for human ends. In one sense, any human outlook is necessarily anthropocentric, since we can apprehend the world only through our own senses and conceptual categories. Accordingly, some advocates of anthropocentric environmental ethics have tried to preempt further debate by arguing that a non-anthropocentric environmental ethic is therefore an oxymoron. But the question at issue is not, “Can we apprehend nature from a nonhuman point of view?” Of course we cannot. The question is, rather, “Should we extend moral consideration to nonhuman natural entities or nature as a whole?” And that question, of course, is entirely open.

1. **We can approach multiple struggles simultaneously – stopping violence against human and nonhuman animals is not mutually exclusive. Failing to act on suffering when we are capable insures the worst forms of violence**
2. **KETELS – 96 [green highlight]** Violet B. – prof English Temple, former director Intellectual Heritage Program – 548 Annals 45 (lexis)]
	1. The deadly consequences of linguistic abuse and skepticism, including their insidious seduction to "empty and impersonal and formalistic oratory and rhetoric," not to enlighten but to delude citizens into accepting absolute state control without protest. The shouting of idealists and intellectuals had come to seem like idle foolishness to Buchner, as he reveals in a letter to his parents: "They write, but no one reads them; they shout, but no one hears them; they act, but no one helps them." n58 Driven by his obsessive conviction that all attempts to break the impenetrable barriers isolating people from each other were doomed, Buchner cries out in a letter to his fiancee: I am alone as though in the grave; when will your words waken me? My friends desert me, we scream in each other's ears like deaf men; I wish we were dumb, then we could only look at one another--nowadays I can hardly look at anyone without tears coming to my eyes. n59 In another letter he confides, "I am afraid of my voice and--of my mirror. . . . This silence is my damnation." n60 The central figure in Danton's Death cannot believe in the existence of a God who would not stop the ceaseless pain and suffering man is heir to. Woyzeck's statement in the play bearing his name, "When God goes, everything goes," anticipates the prescient Nietzsche, whose madman officially announces the death of God and accuses us: "We have killed him--you and I. All of us are his murderers." n61 Unluckily, the French constructionist Jacques Derrida seized on the linguistic implications of that death to announce a radical crisis of the Word. Michel Foucault wrote the epitaph: "The death of God profoundly influenced our language; the silence that replaced its source remains impenetrable." n62 Such untested pronouncements signaled a linguistic relativism as profligately spawned by scholars as by **scoundrels**. It has cast such a **blight** upon words like "love," "friendship," "truth," "goodness," and "responsibility" that we mumble in selfdepreciation when we use them, lest [\*60] someone think we honor still the values they once called to mind. Curiously, the values attached to their opposites, words like "hate," "enmity," "lies," "corruption," and "venality," remain **credible** in our moral vocabularies. We seem to have no trouble comprehending the **evil** that people do or tolerating excuses that confirm our misanthropy. We are **embarrassed by virtue**. Stalin and Hitler debased and manipulated language as a terroristic strategy to make citizens easier prey to a corruption of values that proved hospitable to catastrophe of monumental scale. So, too, in the killing fields of Yugoslavia, where we became so used to slaughter sanitized as "ethnic cleansing" that rescuing the helpless from carnage seemed outside our tidy moral categories, shielded by definition from the combined might and will of the United Nations. The world watched, dumbly passive, as before, in the Holocaust against Jews.

Perm – **do the aff and all non-competitive parts of the alt – that solves better**

Trumpeter ‘91

“Non-Anthropocentrism in a Thoroughly Anthropocentrized World” Anthony Weston Trumpeter, ISSN: 0832-6193 http://trumpeter.athabascau.ca/content/v8.3/weston.html

By taking the restructuring of human communities as an illustration I do not mean to exclude other obviously vital activities, such as preserving the wilderness. Certainly the wild places that remain to us should be protected. For some places and some species even the near-total exclusion of humans may be necessary. Nonetheless, the project of developing a non-anthropocentric ethic, now conceived as making a space for the co-evolution of a less anthropocentric ethic within a less anthropocentrized world, does redirect our main focus toward the points of *interaction*, encounter, rather than separation. Certainly the aim is not to push humans out of the picture entirely, but rather to open up the possibility of relation *between* humans and the rest of Nature. We need to pay much more attention to places where humans and other creatures, honoured in their wildness and potential relatedness, can come together, perhaps warily but at least openly.

**The perm solves your root cause args – there isn’t one and combining struggles solves**

Brian **Martin**, Professor of Science, Technology and Society at the University of Wollongong, **1990**

[Uprooting War, http://www.uow.edu.au/arts/sts/bmartin/pubs/90uw/uw13.html] Rein

In this chapter and in the six preceding chapters I have examined a number of structures and factors which have some connection with the war system. There is much more that could be said about any one of these structures, and other factors which could be examined. Here I wish to note one important point: attention should not be focussed on one single factor to the exclusion of others. This is often done for example by some Marxists who look only at capitalism as a root of war and other social problems, and by some feminists who attribute most problems to patriarchy. The danger of monocausal explanations is that they may lead to an **inadequate political practice**. The 'revolution' may be followed by the persistence or even expansion of many problems which were not addressed by the single-factor perspective. The one connecting feature which I perceive in the structures underlying war is an unequal distribution of power. This unequal distribution is socially organised in many different ways, such as in the large-scale structures for state administration, in capitalist ownership, in male domination within families and elsewhere, in control over knowledge by experts, and in the use of force by the military. Furthermore, these different systems of power are interconnected. They often support each other, and sometimes conflict. This means that the struggle against war can and must be undertaken at many different levels. It ranges from struggles to undermine state power to struggles to undermine racism, sexism and other forms of domination at the level of the individual and the local community. Furthermore, the different struggles need to be **linked together**. That is the motivation for analysing the roots of war and developing strategies for grassroots movements to uproot them.

There is no alternative system of values divorced from anthropocentrism. We should develop an unselfish anthropocentric viewpoint instead of blindly rejecting human nature.

Grey 93

[William Grey, Professor of Philosophy at the University of Queensland, 1993 (“Anthropocentrism and Deep Ecology,” *Australiasian Journal of Philosophy*, Volume 71, Number 4, Available Online at http://www.uq.edu.au/~pdwgrey/pubs/anthropocentrism.html, Accessed 07-27-2011)]

The attempt to provide a genuinely non-anthropocentric set of values, or preferences seems to be a hopeless quest. Once we eschew all human values, interests and preferences we are confronted with just too many alternatives, as we can see when we consider biological history over a billion year time scale. The problem with the various non-anthropocentric bases for value which have been proposed is that they permit too many different possibilities, not all of which are at all congenial to us.fff And that matters. We should be concerned to promote a rich, diverse and vibrant biosphere. Human flourishing may certainly be included as a legitimate part of such a flourishing. The preoccupations of deep ecology arise as a result of human activities which impoverish and degrade the quality of the planet's living systems. But these judgements are possible only if we assume a set of values (that is, preference rankings), based on human preferences. We need to reject not anthropocentrism, but a particularly short term and narrow conception of human interests and concerns. What's wrong with shallow views is not their concern about the well-being of humans, but that they do not really consider enough in what that well-being consists. We need to develop an enriched, fortified anthropocentric notion of human interest to replace the dominant short-term, sectional and self-regarding conception. Our sort of world, with our sort of fellow occupants is an interesting and engaging place. There is every reason for us to try to keep it, and ourselves, going for a few more cosmic seconds [10].

The alternative should be evaluated based on their ability to engage 1AC institutions- society shapes individual beliefs and create behavioral patterns for macro-level trends- their pedagogy is irrelevant absent a method of engagement

Wight – Professor of IR @ University of Sydney – 6

(Colin, Agents, Structures and International Relations: Politics as Ontology, pgs. 48-50

One important aspect of this relational ontology is that these relations constitute our identity as social actors. According to this relational model of societies, one is what one is, by virtue of the relations within which one is embedded. A worker is only a worker by virtue of his/her relationship to his/her employer and vice versa. ‘Our social being is constituted by relations and our social acts presuppose them.’ At any particular moment in time an individual may be implicated in all manner of relations, each exerting its own peculiar causal effects. This ‘lattice-work’ of relations constitutes the structure of particular societies and endures despite changes in the individuals occupying them. Thus, the relations, the structures, are ontologically distinct from the individuals who enter into them. At a minimum, the social sciences are concerned with two distinct, although mutually interdependent, strata. There is an ontological difference between people and structures: ‘people are not relations, societies are not conscious agents’. Any attempt to explain one in terms of the other should be rejected. If there is an ontological difference between society and people, however, we need to elaborate on the relationship between them. Bhaskar argues that we need a system of mediating concepts, encompassing both aspects of the duality of praxis into which active subjects must fit in order to reproduce it: that is, a system of concepts designating the ‘point of contact’ between human agency and social structures. This is known as a ‘positioned practice’ system. In many respects, the idea of ‘positioned practice’ is very similar to Pierre Bourdieu’s notion of *habitus*. Bourdieu is primarily concerned with what individuals do in their daily lives. He is keen to refute the idea that social activity can be understood solely in terms of individual decision-making, or as determined by surpa-individual objective structures. Bourdieu’s notion of the *habitus* can be viewed as a bridge-building exercise across the explanatory gap between two extremes. Importantly, the notion of a habitus can only be understood in relation to the concept of a ‘social field’. According to Bourdieu, a social field is ‘a network, or a configuration, of objective relations between positions objectively defined’. A social field, then, refers to a structured system of social positions occupied by individuals and/or institutions – the nature of which defines the situation for their occupants. This is a social field whose form is constituted in terms of the relations which define it as a field of a certain type. A *habitus* (positioned practices) is a mediating link between individuals’ subjective worlds and the socio-cultural world into which they are born and which they share with others. The power of the habitus derives from the thoughtlessness of habit and habituation, rather than consciously learned rules. The habitus is imprinted and encoded in a socializing process that commences during early childhood. It is inculcated more by experience than by explicit teaching. Socially competent performances are produced as a matter of routine, without explicit reference to a body of codified knowledge, and without the actors necessarily knowing what they are doing (in the sense of being able adequately to explain what they are doing). As such, the *habitus* can be seen as the site of ‘internalization of reality and the externalization of internality.’ Thus social practices are produced in, and by, the encounter between: (1) the *habitus* and its dispositions; (2) the constraints and demands of the socio-cultural field to which the habitus is appropriate or within; and (3) the dispositions of the individual agents located within both the socio-cultural field and the *habitus*. When placed within Bhaskar’s stratified complex social ontology the model we have is as depicted in Figure 1. The explanation of practices will require all three levels. Society, as field of relations, exists prior to, and is independent of, individual and collective understandings at any particular moment in time; that is, social action requires the conditions for action. Likewise, given that behavior is seemingly recurrent, patterned, ordered, institutionalised, and displays a degree of stability over time, there must be sets of relations and rules that govern it. Contrary to individualist theory, these relations, rules and roles are not dependent upon either knowledge of them by particular individuals, or the existence of actions by particular individuals; that is, their explanation cannot be reduced to consciousness or to the attributes of individuals. These emergent social forms must possess emergent powers. This leads on to arguments for the reality of society based on a causal criterion. Society, as opposed to the individuals that constitute it, is, as Foucault has put it, ‘a complex and independent reality that has its own laws and mechanisms of reaction, its regulations as well as its possibility of disturbance. This new reality is society…It becomes necessary to reflect upon it, upon its specific characteristics, its constants and its variables’.

#### Two impacts to wright:

#### A) Cooption- The alt gets coopted and paves the way for authoritarian environmentalism

Hailwood 4 (Simon HAILWOOD Philosophy @ Liverpool ‘4 How to be a Green Liberal p. 155-156)

For me, **the main worry** emerging from such considerations **is not that liberal societies are incapable of embracing meaningful change towards "eco-sanity"**, such that anarchism is the only hope. That hope seems more unrealistic - more utopian in that sense - than that of liberal reform. **The main worry is that those from the authoritarian end of the spectrum will convince people that the liberal mainstream is inherently incapable of reform, and** so **must be replaced by more coercive forms of green politics, and people from the radical left will help with the critique, provide no realistic, non-utopian alternative** themselves, **thus leaving the door open for the "Leviathan or oblivion" school: nakedly authoritarian, radically hierarchical programmes** regarding substantive political equality as an obstacle to progress. 10) Sometimes the point about the practical need to oppose the state is made with impatience about philosophy and abstract theorizing. This does not apply to Carter. But it does to Sale, for example, who denounces abstract philosophical discussion of ethical responses to the "environmental crisis", mainly because dithering over abstruse conceptual matters is to ignore the simple practical issue of scale. '°4 **It would be better if those with such powerful rhetorical skills used them to further the green cause as continuous with furthering the liberal cause against** more **reactionary elements**. Perhaps this is **particularly** true **in the USA, clearly the main player in the scientific-industrial-capitalist global order and, in terms of environmental policy agenda**, in various ways a beacon of unreconstructed unreason. **That would** probably **be of greater practical benefit than giving fellow citizens of the modern world a collection of quasi-religiose blueprinting ideas** coloured with the dismal tinge of an anxious instrumentalism. That is, **it seems more practically feasible to seek to work with the flow of modernity in order to help channel it on to a course more respectful of nature**. That it is, in principle, possible to do this within the terms of what is often taken to be the main political philosophy of modernity, has been the point of this book.

#### B) The Case- engagement is key

Jenks and Talbot-Jensen 11 (INDEFINITE DETENTION UNDER THE LAWS OF WAR Chris Jenks\* & Eric Talbot Jensen\*\* Lieutenant Colonel, U.S. Army Judge Advocate General's Corps. Presently serving as the Chief of the International Law Branch, Office of The Judge Advocate General, Washington D.C. The views expressed in this Article are those of the author and not The Judge Advocate General's Corps, the U.S. Army, or the Department of Defense. \*\* Visiting Assistant Professor, Fordham Law School. The authors wish to thank Sue Ann Johnson for her exceptional research and editing skills, and the organizers and attendees at both the 3rd Annual National Security Law Jtinior Faculty Workshop at the University of Texas School of Law, where we first discussed the ideas for this article, and the Stanford Law and Policy Review National Defense Symposium, where we first presented the finished product. STANFORD LAW & POLICY REVIEW [Vol. 22:1] Page Lexis)

Those who would deconstruct the law of war as applied to detention stemming from armed conflict with non state actors may achieve victory, but in an academic, and, practically speaking, pyrrhic sense. Arguing that the Geneva Conventions for Prisoners and Civilians do not, on their face, apply to members of al-Qaeda or the Taliban may be correct, and in more than one way. But in so arguing, the deconstructionist approach removes a large portion of intemationally recognized and accepted provisions for regulating detention associated with armed conflict—^the Geneva Conventions—^while leaving the underlying question of how to govern detention unanswered. At some point, even the deconstmctionist must shift to positivism and propose an altemative, an altemative we submit would inevitably resemble that which is already extant in the law of war. Moreover, while there has been discussion about the strained application of the Geneva Conventions and Additional Protocols to states combating transnational terrorism, attempts at a new convention have gained little traction. Our approach is more an attempt at pragmatism than radicalism—there are individuals currently detained, purportedly indefinitely and under the law of war. Yet despite years of such detention, two administrations have provided little if any information on what exactly such detention means, how and by what it is govemed, and if and how it ends. Conflating aspects of intemationally recognized law of war conventions allows for a transparent process that could be promulgated now. Whether for the up to fifty or so individuals currently detained at Guantanamo or for those who may be detained in the future, we posit that the law of war provides a legitimate model for indefinite detention. And, as the Walsh Report recognized,^' the longer detainees are held, the more concern for their individual situations must be given. We therefore analyze the complete protections provided by the law of war and advocate that all of them, over time and to varying degrees, be applied to the detainees in Guantanamo. In this way, detention under the laws of war can provide a humane system of indefinite detention that strikes the right balance between the security of the nation and the rights of individuals

#### No root cause, multiplicity of internal links means there is no one cause to any issue.

#### Judicial Review is key to preventing torture

Amnesty 5 (Amnesty International USA, Guantanamo, and Beyond: The Continuing Pursuit of Unchecked Executive Power, May 13, 2005, http://web.amnesty.org/library/Index/ENGAMR510632005)

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

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

Gross 4 (Oren Gross, Professor, Law, University of Minnesota, MINNESOTA LAW REVIEW, June 2004, p. 1492-1493.)

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

### 2AC- Apocalyptic Rhetoric

#### Inaction DA- the alternative to apocalyptic rhetoric makes inaction inevitable- society isn’t motived to act unless scenarios are framed through the lens of apoclyptisism

Schatz 12 (JL, Binghamton U, "The Importance of Apocalypse: The Value of End-­‐Of-­‐ The-­‐World Politics While Advancing Ecocriticism," The Journal of Ecocriticism: Vol 4, No 2 (2012))

Any **hesitancy to deploy images of apocalypse** out of the risk of acting in a biopolitical manner **ignores** how any particular metaphor—apocalyptic or not—**always risks getting co--‐opted**. It does not excuse inaction. Clearly hegemonic forces have already assumed control of determining environmental practices when one looks at the debates surrounding off--‐shore drilling, climate change, and biodiversity within the halls of Congress. “As this ideological quagmire worsens, urgent problems … will go unsolved … only to fester more ominously into the future. … [E]cological crisis … cannot be understood outside the larger social and global context … of internationalized markets, finance, and communications” (Boggs 774). If it weren’t for people such as Watson connecting things like whaling to the end of the world it wouldn’t get the needed coverage to enter into public discourse. It takes big news to make headlines and hold attention spans in the electronic age. Sometimes it even takes a reality TV show on Animal Planet. As Luke reminds us, “Those who dominate the world exploit their positions to their advantage **by defining how the world is known**. Unless they also face resistance, questioning, and challenge from those who are dominated, **they** certainly **will remain the dominant forces**” (2003: 413). Merely sitting back and theorizing over metaphorical deployments does a **grave injustice** to the gains activists are making on the ground. It also **allows hegemonic institutions to continually define the debate** over the environment by framing out any attempt for significant change, whether it be radical or reformist. Only by jumping on every opportunity for resistance can ecocriticism have the hopes of combatting the current ecological reality. This means we must recognize that **we cannot fully escape the master’s house** since the surrounding environment always shapes any form of resistance. Therefore, we **ought to act even if we may get co--‐opted.** As Foucault himself reminds us, “instead of radial ruptures more often one is dealing with mobile and transitory points of resistance, producing cleavages in a society that shift about[.] … And it is doubtless the strategic codification of these points of resistance that makes a revolution possible, somewhat similar to the way in which the state relies on the institutional integration of power relationships. It is in this sphere of force relations that we must try to analyze the mechanisms of power” (96--‐97). Here Foucault “asks us to think about resistance differently, as not anterior to power, but a component of it. If we take seriously these notions on the exercise and circulation of power, then we … open … up the field of possibility to talk about particular kinds of environmentalism” (Rutherford 296). This is not to say that all actions are resistant. Rather, the revolutionary actions that are truly resistant oftentimes appear mundane since it is more about altering the intelligibility that frames discussions around the environment than any specific policy change. Again, this is why people like Watson use one issue as a jumping off point to talk about wider politics of ecological awareness. Campaigns that look to the government or a single policy but for a moment, and then go on to challenge hegemonic interactions with the environment through other tactics, allows us to codify strategic points of resistance in numerous places at once. Again, this does not mean we must agree with every tactic. It does mean that even failed attempts are meaningful. For example, while PETA’s ad campaigns have drawn criticism for comparing factory farms to the Holocaust, and featuring naked women who’d rather go naked than wear fur, their importance extends beyond the ads alone6. By bringing the issues to the forefront they draw upon known metaphors and reframe the way people talk about animals despite their potentially anti--‐Semitic and misogynist underpinnings. Michael Hardt and Antonio Negri’s theorization of the multitude serves as an excellent illustration of how **utilizing the power of the master’s biopolitical tools can** become powerful enough to **deconstruct** its house **despite the risk of co--‐optation or backlash**. For them, the multitude is defined by the growing global force of people around the world who are linked together by their common struggles without being formally organized in a hierarchal way. While Hardt and Negri mostly talk about the multitude in relation to global capitalism, their understanding of the commons and analysis of resistance is useful for any ecocritic. They explain, [T]he multitude has matured to such an extent that it is becoming able, through its networks of communication and cooperation … [and] its production of the common, to sustain an alternative democratic society on its own. … Revolutionary politics must grasp, in the movement of the multitudes and through the accumulation of common and cooperative decisions, the moment of rupture … that can create a new world. In the face of the destructive state of exception of biopower, then, there is also a constituent state of exception of democratic biopolitics[,] … creating … a new constitutive temporality. (357) Once one understands the world as interconnected—instead of constructed by different nation--‐states and single environments—conditions in one area of the globe couldn’t be conceptually severed from any other. In short, we’d all have a stake in the global commons. Ecocritics can then **utilize biopolitics** to shape discourse and fight against governmental biopower by waking people up to the pressing need to inaugurate a new future for there to be any future. Influencing other people through argument and end--‐of--‐the--‐world tactics is not the same biopower of the state so long as it doesn’t singularize itself but for temporary moments. Therefore, “it is not unreasonable to hope that in a biopolitical future (after the defeat of biopower) war will no longer be possible, and the intensity of the cooperation and communication among singularities … will destroy its [very] possibility” (Hardt & Negri 347). In The context of capitalism, when wealth fails to trickle down it would be seen as a problem for the top since it would stand testament to their failure to equitably distribute wealth. In the context of environmentalism, not--‐in--‐my--‐backyard reasoning that displaces ecological destruction elsewhere would be exposed for the failure that it is. There is no backyard that is not one’s own. Ultimately, **images of planetary doom** demonstrate how we are all **interconnected** and in doing so inaugurate a **new world** where multitudes, and not governments, guide the fate of the planet.

### Ethics

**Methods shouldn’t come first – they are a means. Elevating them legitimizes mass suffering**

**Fearon and Wendt 2000**

James, Professor of Poli Sci at Stanford, Alexander, Professor of IR at Ohio State, Handbook of International Relations, ed. Carlsnaes, p. 68

It should be stressed that in advocating a pragmatic view we are not endorsing method-driven social science. Too much research in international relations chooses problems of things to be explained with a view to whether the analysis will provide support for one or another methodological “ism”. But the point of IR scholarship should be to answer questions about international politics that are of great normative concern, not to validate methods. **Methods are means, not ends in themselves**. As a matter of personal scholarly choice it may reasonable to stick with one method and see how far it takes us. But since we do not know how far that is, if the goal of the discipline is insight into world politics then it makes little sense to rule out one or the other approach on a priori grounds. In that case a method indeed becomes a tacit ontology, which may lead to neglect of whatever problems it is poorly suited to address. Being conscious about these choices is why it is important to distinguish between the ontological, empirical, and pragmatic levels of the rationalist – constructivist debate. We favor the pragmatic approach on heuristic grounds, but we certainly believe a conversation should continue on all three levels.

**Method can’t be evaluated in a vacuum- to do so is useless**

Mario **Bunge**, Treatise on basic Philosophy Vol 6: Epistemology and Methodology II: Understanding the world, 19**83** p. 207

Tenth, the methodics of any science includes not only its peculiar techniques but also the scientific method (Ch. 7, Section 2.2). A collection of techniques, e.g. for producing high pressures or high vacua, or for measuring the effects of reinforcement on the learning of philosophy does not constitute a science: **methods are means not ends**, and they **cannot be applied** or evaluated **apart** from a problematics and an aim. Merely exploiting a given technique for obtaining or processing data without any ulterior purposes is not doing science but just **keeping busy and possibly salaried.**

**Not defending consequences replicates totalitarian disregard for life – sacrificing responsibility for morality turns case**

**Isaac 2** (Jeffrey C., Prof of Polisci and Director of the Center for the Study of Democracy and Public Life @ Indiana U, “Hannah Arendt on human rights and the limits of exposure, or why Noam Chomsky is wrong about the meaning of Kosovo,” AD: 12/20/09) jl

What does Arendt mean here? She does not attribute primary responsibility, either causal or moral, for the rise of totalitarianism to these intellectuals, who were basically without power. But she does imply that they were guilty of a serious intellectual and indeed ethical failure, connected to the fact that while brilliant they were also cynical. Disgusted with bourgeois hypocrisy and its double standards, they abandoned standards altogether. Revolted by the impoverishment of social relationships, they abandoned all sense of genuine solidarity with fellow citizens or human beings. It was not simply that they lacked any clear sense of the actual consequences of their rage against liberalism. They also failed to offer, or to stand by, any moral values. They were enemies of hypocrisy rather than partisans of liberty. They lacked any "sense of reality"--any sense of their responsibility for the common world inhabited by men and women, and any sense of the role of their own ideas as potential sources of human good or evil. The theme of the conjunction of intellect and evil recurs again in the concluding sections of Origins, this time in connection not with the irresponsibility of intellectuals as such, but with the relentless logic of totalitarian ideologies. There is, she argues, not simply a dogmatism but a cruelty inherent in the totalistic explanations furnished by such ideologies. Such cruelty derives from the complete independence of totalitarian ideologies from "all experience." Totalitarian thinking reduces all that is unique, novel, or contingent to the simple terms of its own purported truth. All experience becomes reducible to the terms of that truth, and is forced, not simply politically but also intellectually, to conform to these terms. This accounts for what Arendt considers the most terrifying feature of totalitarian thought, its "stringent logicality." Ideological thinking, she argues, "orders facts into an absolutely logical procedure which starts from an axiomatically accepted premise, deducing everything else from it; that is, it proceeds with a consistency that exists nowhere in the realm of reality" (Arendt, 1973: 471). The ideologue, Arendt maintains, demands a consistency that is inconsistent with "the realm of reality." She does not deny that logic is a method of ordering concepts, or that consistency may be an intellectual virtue. But she maintains that such consistency is not and cannot be a defining quality of the world. The world is too complex, too pluralistic, to admit such consistency. It consists of the disparate experiences, beliefs, and convictions of diverse individuals and groups. And it consists of complex situations that admit of difficult and often tragic choices. The demand for consistency in such a world is too monistic. It is an intellectual conceit--and a conceit specific to intellectuals--to imagine that inconsistency or contradiction is the world's most profound problem, and that the resolution of such inconsistency by logical methods is the most important intellectual-cum-political task. For the elimination of inconsistency may well threaten the elimination of situational ambiguities and differences of opinion that are endemic to the human condition. And, more to the point, the world's most profound problem is not inconsistency or ambiguity or even hypocrisy. It is the infliction of harm and suffering on humans by other humans, and the consequent denial of elemental human dignity to the vulnerable and dispossessed. It is, in short, the denial of freedom to human beings. The "stringent logicality" of ideological thinking not only fails to make this suffering a primary concern; it actually exacerbates this suffering, through its own cruel lack of political responsibility, and through its tendency to gravitate toward cruel and unsavory causes that seem noble because of their relentless ideological consistency (see Shklar, 1984). I want to be clear about this. Arendt is talking about totalitarian ideologies, principally Nazism and Stalinism. She is not arguing that all of those who turn "logicality" into a supreme virtue are quasi totalitarians. But in criticizing totalitarian modes of thinking, she also makes a more general point: that "strict logicality," whatever its intellectual merits, can be hostile to other and more important human values. Intellectuals, she believes, are peculiarly liable to ignore thisfff, for they often inhabit an imaginary world of pure ideality, in which ideas, especially their own ideas, predominate. This is the peculiar unworldliness of the intellectual. It is the source of much brilliance. But if intellectuals want to be social critics then they must become worldly, They must appreciate the irreducible complexity and plurality of the world (see Arendt, 1971: 50-54).

### Epistemology First

**Prefer aff falsifiability – it disproves their methodology, destroys academic debate, and causes extinction.**

**Coyne ‘6** (Jerry A., Author and Writer for the Times, “A plea for empiricism”, FOLLIES OF THE WISE, Dissenting essays, 405pp. Emeryville, CA: Shoemaker and Hoard, 1 59376 101 5)

My discomfort with Freud’s lack of rigour only grew as I continued to read his books and case histories. The latter were especially problematic: surely there were better explanations of Little Hans’s fear of horses than their symbolic representation of his father, haunting Hans with the threat of retaliation for his Oedipal fantasies. (It has since more plausibly been suggested that Hans was simply traumatized after seeing a horse collapse in the street.) Was Freud making it all up as he went along? Or did I have a personality flaw that blinded me to the power of his contributions? After all, he is touted (along with Darwin and Marx) as one of the three greatest modern thinkers, and only a hermit could be unaware of how deeply his ideas permeate Western society. Fortunately, Frederick Crews has made a much more thorough study of Freud, distilling and interpreting not only his whole corpus but also the past three decades of Freud scholarship. His conclusion is that Freud was indeed making it up as he went along. In Follies of the Wise, Crews takes on not only Freud and psychoanalysis, but also other fields of intellectual inquiry which have caused rational people to succumb to irrational ideas: recovered-memory therapy, alien abduction, theosophy, Rorschach inkblot analysis, intelligent design creationism, and even poststructuralist literary theory. All of these, asserts Crews, violate “the ethic of respecting that which is known, acknowledging what is still unknown, and acting as if one cared about the difference”. This, then, is a collection about epistemology, and one that should be read by anyone still harbouring the delusion that Freud was an important thinker, that psychoanalysis is an important cure, that intelligent design is a credible alternative to Darwinism, or that religion and science can coexist happily. It is perhaps strange that a retired professor of literature should become our preeminent critic of Freudianism and other intellectual follies on empirical grounds. But Crews has a keen mind, whetted by decades of arguing about the meaning of American literature, a scientific temperament, and is a fine prose stylist. And his credentials, at least for criticizing Freud, are authenticated by the fact that he was once an ardent Freudian, having written a psychoanalytic analysis of Nathaniel Hawthorne (The Sins of the Fathers, 1966), and then later disowned much of that book after developing misgivings about Freud’s system. Laid out in the first four essays, Crews’s brief against Freud is hard to refute. Through Freud’s letters and documents, Crews reveals him to be not the compassionate healer of legend, but a cold and calculating megalomaniac, determined to go down in history as the Darwin of the psyche. Not only did he not care about patients (he sometimes napped or wrote letters while they were free-associating): there is no historical evidence that he effectively cured any of them. And the propositions of psychoanalysis have proven to be either untestable or falsified. How can we disprove the idea, for example, that we have a death drive? Or that dreams always represent wish fulfilments? When faced with counter-examples, Freudianism always proves malleable enough to incorporate them as evidence for the theory. Other key elements of Freudian theory have never been corroborated. There are no scientifically convincing experiments, for example, demonstrating the repression of traumatic memories. As Crews points out, work with survivors of the Holocaust and other traumatic episodes has shown not a single case in which such memories are quashed and then recovered. In four further essays, Crews documents the continuing pernicious influence of Freud in the “recovered memory” movement. The idea that childhood sexual abuse can be repressed and then recalled originated with Freud, and has been used by therapists to evoke false memories which have traumatized patients and shattered families. Realizing the scientific weaknesses of Freud, many diehards have taken the fall-back position that he was nevertheless a thinker of the first rank. Didn’t Freud give us the idea of the unconscious, they argue? Well, not really, for there was a whole history of pre-Freudian thought about people’s buried motives, including the writings of Shakespeare and Nietzsche. The “unconscious” was a commonplace of Romantic psychology and philosophy. And those who champion Freud as a philosopher must realize that his package also includes less savoury items like penis envy, the amorality of women, and our Lamarckian inheritance of “racial memory”. The quality of Crews’s prose is particularly evident in his two chapters on evolution versus creationism. In the first, he takes on creationists in their new guise as intelligent-design advocates, chastising them for pushing not only bad science, but contorted faith: “Intelligent design awkwardly embraces two clashing deities – one a glutton for praise and a dispenser of wrath, absolution, and grace, the other a curiously inept cobbler of species that need to be periodically revised and that keep getting snuffed out by the very conditions he provided for them. Why, we must wonder, would the shaper of the universe have frittered away some fourteen billion years, turning out quadrillions of useless stars, before getting around to the one thing he really cared about, seeing to it that a minuscule minority of earthling vertebrates are washed clean of sin and guaranteed an eternal place in his company?” But after demolishing creationists, Crews gives peacemaking scientists their own hiding, reproving them for trying to show that there is no contradiction between science and theology. Regardless of what they say to placate the faithful, most scientists probably know in their hearts that science and religion are incompatible ways of viewing the world. Supernatural forces and events, essential aspects of most religions, play no role in science, not because we exclude them deliberately, but because they have never been a useful way to understand nature. Scientific “truths” are empirically supported observations agreed on by different observers. Religious “truths,” on the other hand, are personal, unverifiable and contested by those of different faiths. Science is nonsectarian: those who disagree on scientific issues do not blow each other up. Science encourages doubt; most religions quash it. But religion is not completely separable from science. Virtually all religions make improbable claims that are in principle empirically testable, and thus within the domain of science: Mary, in Catholic teaching, was bodily taken to heaven, while Muhammad rode up on a white horse; and Jesus (born of a virgin) came back from the dead. None of these claims has been corroborated, and while science would never accept them as true without evidence, religion does. A mind that accepts both science and religion is thus a mind in conflict. Yet scientists, especially beleaguered American evolutionists, need the support of the many faithful who respect science. It is not politically or tactically useful to point out the fundamental and unbreachable gaps between science and theology. Indeed, scientists and philosophers have written many books (equivalents of Leibnizian theodicy) desperately trying to show how these areas can happily cohabit. In his essay, “Darwin goes to Sunday School”, Crews reviews several of these works, pointing out with brio the intellectual contortions and dishonesties involved in harmonizing religion and science. Assessing work by the evolutionist Stephen Jay Gould, the philosopher Michael Ruse, the theologian John Haught and others, Crews concludes, “When coldly examined . . . these productions invariably prove to have adulterated scientific doctrine or to have emptied religious dogma of its commonly accepted meaning”. Rather than suggesting any solution (indeed, there is none save adopting a form of “religion” that makes no untenable empirical claims), Crews points out the **dangers to the survival of our planet arising** from a rejection of Darwinism. Such rejection promotes apathy towards overpopulation, pollution, deforestation and other environmental crimes: “So long as we regard ourselves as creatures apart who need only repent of our personal sins to retain heaven’s blessing, we won’t take the full measure of our species-wise responsibility for these calamities”. Crews includes three final essays on deconstruction and other misguided movements in literary theory. These also show “follies of the wise” in that they involve interpretations of texts that are unanchored by evidence. Fortunately, the harm inflicted by Lacan and his epigones is limited to the good judgement of professors of literature. Follies of the Wise is one of the most refreshing and edifying collections of essays in recent years. Much like Christopher Hitchens in the UK, Crews serves a vital function as National Sceptic. He ends on a ringing note: “**The human race has produced only one successfully validated epistemology**, characterizing all scrupulous inquiry into the real world, from quarks to poems. It is, simply, **empiricism**, or the submitting of propositions to the arbitration of evidence that is acknowledged to be such by all of the contending parties. Ideas that claim immunity from such review, whether because of mystical faith or privileged “clinical insight” or the say-so of eminent authorities, are not to be countenanced until they can pass the same skeptical ordeal to which all other contenders are subjected.” As science in America becomes ever more harried and debased by politics and religion, we desperately need to heed Crews’s plea for empiricism.

## 1AR

### Roleplaing

**Framework – you should evaluate the consequences of the hypothetical enactment of the plan by the united states federal government versus the status quo or a competitive policy option – most predictable education and key to portable advocacy skills – multiple substantive net benefits**

**a) Critical thinking – roleplaying encourages intellectual flexibility and fights dogmatism – key to critical questioning of government policy**

**Esberg and Sagan 12** – (2/17/12, Jane, special assistant to the director at the Center on International Cooperation, New York University, and Scott, professor of political science and director of the Center for International Security and Cooperation, Stanford University, “Negotiating Nonproliferation: Scholarship, Pedagogy, and Nuclear Weapons Policy,” The Nonproliferation Review, 19:1, 95-108, taylor and francis)

These government or quasi-government think tank simulations often provide very similar lessons for high-level players as are learned by students in educational simulations. Government participants learn about the **importance of understanding foreign perspectives**, the need to practice internal coordination, and the necessity to compromise and coordinate with other governments in negotiations and crises. During the Cold War, political scientist Robert Mandel noted how crisis exercises and war games forced government officials to **overcome “bureaucratic myopia,”** moving beyond their normal organizational roles and thinking more creatively about how others might react in a crisis or conflict.6 The skills of imagination and the subsequent ability to predict foreign interests and reactions remain critical for **real-world foreign policy makers**. For example, simulations of the Iranian nuclear crisis—held in 2009 and 2010 at the Brookings Institution's Saban Center and at Harvard University's Belfer Center, and involving former US senior officials and regional experts—highlighted the dangers of misunderstanding foreign governments’ preferences and misinterpreting their subsequent behavior. In both simulations, the primary criticism of the US negotiating team lay in a failure to predict accurately how other states, both allies and adversaries, would behave in response to US policy initiatives.7

By university age, students often have a pre-defined view of international affairs, and the literature on simulations in education has long emphasized how such exercises **force students to challenge their assumptions about how other governments behave and how their own government works**.8 Since simulations became more common as a teaching tool in the late 1950s, educational literature has expounded on their benefits, from encouraging **engagement** by breaking from the typical lecture format, to improving **communication skills**, to promoting **teamwork**.9 More broadly, simulations can deepen understanding by asking students to link fact and theory, providing a context for facts while bringing theory into the realm of practice.10 These exercises are particularly valuable in teaching international affairs for many of the same reasons they are useful for policy makers: they force participants to “**grapple with the issues arising from a world in flux**.”11 Simulations have been used successfully to teach students about such disparate topics as European politics, the Kashmir crisis, and US response to the mass killings in Darfur.12 Role-playing exercises certainly encourage students to learn political and technical facts—but they learn them in a more active style. Rather than sitting in a classroom and merely receiving knowledge, students actively research “their” government's positions and actively argue, brief, and negotiate with others.13 Facts can change quickly; simulations teach students how to contextualize and act on information.14

### at: structural violence

**War outweighs**

**Boulding 78** [Ken, is professor of economics and director, Center for Research on Conflict Resolution, University of Michigan, “Future Directions in Conflict and Peace Studies,” The Journal of Conflict Resolution, Vol. 22, No. 2 (Jun., 1978), pp. 342-354]

**Galtung is** very legitimately **interested in** problems of **world poverty** and the failure of development of the really poor. He tried to amalga- mate this interest with the peace research interest in the more narrow sense. Unfortunately, **he did this by downgrading** the study of inter- national peace, labeling it "**negative peace**" (it should really have been labeled "negative war") **and** then **developing the concept of "structural violence**," which initially meant all those social structures and histories which produced an expectation of life less than that of the richest and longest-lived societies. He argued by analogy that if people died before the age, say, of 70 from avoidable causes, that this was a death in "war"' which could only be remedied by something called "positive peace." Unfortunately, the concept of structural violence was broadened, in the word of one slightly unfriendly critic, to include anything that Galtung did not like. **A**nother **factor** in this situation **was** **the feeling**, certainly in the 1960s and early 1970s, that nuclear deterrence was actually succeeding as deterrence and **that** **the problem of nuclear war had receded** into the background. **This** it seems to me **is a** most **dangerous illusion and diverted** conflict and peace **research** for ten years or more **away from problems of** disarmament and **stable peace toward a grand, vague study of world developments, for which most of the peace researchers are not particularly well qualified**. To my mind, at least, **the quality of** the **research has suffered** severely **as a result**.' The complex nature of the split within the peace research community is reflected in two international peace research organizations. The official one, the International Peace Research Association (IPRA), tends to be dominated by Europeans somewhat to the political left, is rather, hostile to the United States and to the multinational cor- porations, sympathetic to the New International Economic Order and thinks of itself as being interested in justice rather than in peace. The Peace Science Society (International), which used to be called the Peace Research Society (International), is mainly the creation of Walter Isard of the University of Pennsylvania. It conducts meetings all around the world and represents a more peace-oriented, quantitative, science- based enterprise, without much interest in ideology. COPRED, while officially the North American representative of IPRA, has very little active connection with it and contains within itself the same ideological split which, divides the peace research community in general. It has, however, been able to hold together and at least promote a certain amount of interaction between the two points of view. Again representing the "scientific" rather than the "ideological" point of view, we have SIPRI, the Stockholm International Peace Research Institute, very generously (by the usual peace research stand- ards) financed by the Swedish government, which has performed an enormously useful service in the collection and publishing of data on such things as the war industry, technological developments, arma- ments, and the arms trade. The Institute is very largely the creation of Alva Myrdal. In spite of the remarkable work which it has done, how- ever, her last book on disarmament (1976) is almost a cry of despair over the folly and hypocrisy of international policies, the overwhelming power of the military, and the inability of mere information, however good, go change the course of events as we head toward ultimate ca- tastrophe. I do not wholly share her pessimism, but it is hard not to be a little disappointed with the results of this first generation of the peace research movement. Myrdal called attention very dramatically to the appalling danger in which Europe stands, as the major battleground between Europe, the United States, and the Soviet Union if war ever should break out. It may perhaps be a subconscious recognition-and psychological denial-of the sword of Damocles hanging over Europe that has made the European peace research movement retreat from the realities of the international system into what I must unkindly describe as fantasies of justice. But the American peace research community, likewise, has retreated into a somewhat niggling scientism, with sophisticated meth- odologies and not very many new ideas. I must confess that when I first became involved with the peace research enterprise 25 years ago I had hopes that it might produce some- thing like the Keynesian revolution in economics, which was the result of some rather simple ideas that had never really been thought out clearly before (though they had been anticipated by Malthus and others), coupled with a substantial improvement in the information system with the development of national income statistics which rein- forced this new theoretical framework. As a result, we have had in a single generation a very massive change in what might be called the "conventional wisdom" of economic policy, and even though this conventional wisdom is not wholly wise, there is a world of difference between Herbert Hoover and his total failure to deal with the Great Depression, simply because of everybody's ignorance, and the moder- ately skillful handling of the depression which followed the change in oil prices in 1-974, which, compared with the period 1929 to 1932, was little more than a bad cold compared with a galloping pneumonia. In the international system, however, there has been only glacial change in the conventional wisdom. There has been some improvement. Kissinger was an improvement on John Foster Dulles. We have had the beginnings of detente, and at least the possibility on the horizon of stable peace between the United States and the Soviet Union, indeed in the whole temperate zone-even though the tropics still remain uneasy and beset with arms races, wars, and revolutions which we cannot really afford. Nor can we pretend that peace around the temper- ate zone is stable enough so that we do not have to worry about it. The qualitative arms race goes on and could easily take us over the cliff. The record of peace research in the last generation, therefore, is one of very partial success. It has created a discipline and that is something of long-run consequence, most certainly for the good. It has made very little dent on the conventional wisdom of the policy makers anywhere in the world. It has not been able to prevent an arms race, any more, I suppose we might say, than the Keynesian economics has been able to prevent inflation. But whereas inflation is an inconvenience, the arms race may well be another catastrophe. Where, then, do we go from here? Can we see new horizons for peace and conflict research to get it out of the doldrums in which it has been now for almost ten years? The challenge is surely great enough. It still remains true that **war**, **the breakdown of Galtung's "negative peace," remains the greatest clear and present danger to the human race, a danger to human survival far greater than poverty, or injustice, or oppression, desirable and necessary as it is to** **eliminate these things**. Up to the present generation, war has been a cost and an inconven- ience to the human race, but it has rarely been fatal to the process of evolutionary development as a whole. It has probably not absorbed more than 5% of human time, effort, and resources. Even in the twenti- eth century, with its two world wars and innumerable smaller ones, it has probably not acounted for more than 5% of deaths, though of course a larger proportion of premature deaths. Now, however, **advancing technology is creating a situation where in the first place we are developing a single world system that does not** **have the redundancy of the many isolated systems of the past and in which therefore if any- thing goes wrong everything goes wrong**. The Mayan civilization could collapse in 900 A.D., and collapse almost irretrievably without Europe or China even being aware of the fact. When we had a number of iso- lated systems, the catastrophe in one was ultimately recoverable by migration from the surviving systems. **The** one-world **system**, therefore, which science, transportation, and communication are rapidly giving us, **is inherently more precarious than the** many-world system of the **past**. **It is all the more important**, therefore, **to make it** internally **robust and capable only of recoverable catastrophes. The necessity for stable peace, therefore, increases with every improvement in technology, either of war or of peacex**

**Squo is structurally improving**

**Dash 2/4** Co-Founder and Managing Director at Activate, a new kind of strategy consultancy that advises companies about the opportunities at the intersection of technology and media co-founder and CEO of ThinkUp, which shows you how to be better at using your social networks, publisher, editor and owner of Dashes.com, my personal blog where I've been publishing continuously since 1999, entrepreneur, writer and geek living in New York City (Anil Dash, 4 February 2013, “THE WORLD IS GETTING BETTER. QUICKLY.,” http://dashes.com/anil/2013/02/the-world-is-getting-better-quickly.html)

**The world is getting better, faster, than we could ever have imagined**. For those of us who are fortunate enough to live in wealthy communities or countries, we have a common set of reference points we use to describe the world's most intractable, upsetting, unimaginable injustices. Often, we only mention these horrible realities in minimizing our own woes: "Well, that's annoying, but it's hardly as bad as children starving in Africa." Or "Yeah, this is important, but it's not like it's the cure for AIDS." Or the omnipresent description of any issue as a "First World Problem". But **let's**, for once, **look at the actual data around developing world problems. Not** our condescending, world-away displays of **emotion, or** our slacktivist **tendencies to see a retweet as meaningful action, but the actual numbers** and metrics about how progress is happening for the world's poorest people. Though metrics and measurements are always fraught and flawed, Gates' single biggest emphasis was the idea that **measurable progress and metrics are necessary for any meaningful improvements to happen in the lives of the world's poor.** So how are we doing? THE WORLD HAS CHANGED The results are astounding. **Even if we caveat that every measurement is imprecise, that billionaire philanthropists are going to favor data that strengthens their points, and that some of the most significant problems are difficult to attach metrics to, it's inarguable that the past two decades have seen the greatest leap forward in the lives of the global poor** in the history of humanity. Some highlights: **Children are 1/3 less likely to die before age five** than they were in 1990. **The global childhood mortality rate for kids under 5 has dropped from 88** in 1000 in 1990 **to 57** in 1000 in 2010. **The global infant mortality rate** for kids dying before age one **has plunged** from 61 in 1000 to 40 in 1000. Now, any child dying is of course one child too many, but this is astounding progress to have made in just twenty years. **In the past 30 years, the percentage of children who receive key immunizations such as the DTP vaccine has quadrupled**. **The percentage of people in the world living on less than $1.25 per day has been cut in half** since 1990, ahead of the schedule of the Millennium Development Goals which hoped to reach this target by 2015. **The number of deaths to tuberculosis has been cut 40% in the past twenty years**. **The consumption of ozone-depleting substances has been cut 85% globally in the last thirty years. The percentage of urban dwellers living in slums globally has been cut from 46.2% to 32.7% in the last twenty years.** And **there's more progress in hunger and contraception, in sustainability and education, against AIDS and illiteracy**. After reading the Gates annual letter and following up by reviewing the UN's ugly-but-data-rich Millennium Development Goals statistics site, I was surprised by how much progress has been made in the years since I've been an adult, and just how little I've heard about the big picture despite the fact that I'd like to keep informed about such things. I'm not a pollyanna — **there's a lot of work to be done. But I can personally attest to the profound effect that basic improvements like clean drinking water can have in people's lives.** Today, **we often use the world's biggest problems as metaphors for impossibility. But the evidence shows that**, actually, **we're really good at solving even the most intimidating challenges in the world. What we're lacking is the ability to communicate effectively about how we make progress, so that we can galvanize even more investment of resources, time and effort to tackling the problems we have left.**