# 1NC

### 1st Off

#### OUR INTERPRETATION: The resolution asks a yes/no question as to the desirability of the United States Federal Government action. The role of the ballot should be to affirm or reject the actions and outcomes of the plan.

#### 1. THE TOPIC IS DEFINED BY THE PHRASE FOLLOWING THE COLON – THE UNITED STATES FEDERAL GOVERNMENT IS THE AGENT OF THE RESOLUTION, NOT THE INDIVIDUAL DEBATERS

Webster’s Guide to Grammar and Writing 2K

 <http://ccc.commnet.edu/grammar/marks/colon.htm>

Use of a colon before a list or an explanation that is preceded by a clause that can stand by itself. Think of the colon as a gate, inviting one to go on… If the introductory phrase preceding the colon is very brief and the clause following the colon represents the real business of the sentence, begin the clause after the colon with a capital letter.

#### 2. “RESOLVED” EXPRESSES INTENT TO IMPLEMENT THE PLAN

American Heritage Dictionary 2K

[www.dictionary.com/cgi-bin/dict.pl?term=resolved](http://www.dictionary.com/cgi-bin/dict.pl?term=resolved)

To find a solution to; solve …

To bring to a usually successful conclusion

#### 3. “SHOULD” DENOTES AN EXPECTATION OF ENACTING A PLAN

American Heritage Dictionary – 2K

[www.dictionary.com]

3 Used to express probability or expectation

#### 4. THE U.S.F.G. is the three branches of government

Dictionary.com 2k6 [[http://dictionary.reference.com/browse/united+states+government](http://dictionary.reference.com/browse/united%2Bstates%2Bgovernment)]

|  |
| --- |
| noun |
| the executive and legislative and judicial branches of the federal government of the United States  |

#### Simulated national security law debates preserve agency and enhance decision-making---avoids cooption

Laura K. Donohue 13, Associate Professor of Law, Georgetown Law, 4/11, “National Security Law Pedagogy and the Role of Simulations”, http://jnslp.com/wp-content/uploads/2013/04/National-Security-Law-Pedagogy-and-the-Role-of-Simulations.pdf

The concept of simulations as an aspect of higher education, or in the law school environment, is not new.164 Moot court, after all, is a form of simulation and one of the oldest teaching devices in the law. What is new, however, is the idea of designing a civilian national security course that takes advantage of the doctrinal and experiential components of law school education and integrates the experience through a multi-day simulation. In 2009, I taught the first module based on this design at Stanford Law, which I developed the following year into a full course at Georgetown Law. It has since gone through multiple iterations. The initial concept followed on the federal full-scale Top Official (“TopOff”) exercises, used to train government officials to respond to domestic crises.165 It adapted a Tabletop Exercise, designed with the help of exercise officials at DHS and FEMA, to the law school environment. The Tabletop used one storyline to push on specific legal questions, as students, assigned roles in the discussion, sat around a table and for six hours engaged with the material. The problem with the Tabletop Exercise was that it was too static, and the rigidity of the format left little room, or time, for student agency. Unlike the government’s TopOff exercises, which gave officials the opportunity to fully engage with the many different concerns that arise in the course of a national security crisis as well as the chance to deal with externalities, the Tabletop focused on specific legal issues, even as it controlled for external chaos. The opportunity to provide a more full experience for the students came with the creation of first a one-day, and then a multi-day simulation. The course design and simulation continues to evolve. It offers a model for achieving the pedagogical goals outlined above, in the process developing a rigorous training ground for the next generation of national security lawyers.166 A. Course Design The central idea in structuring the NSL Sim 2.0 course was to bridge the gap between theory and practice by conveying doctrinal material and creating an alternative reality in which students would be forced to act upon legal concerns.167 The exercise itself is a form of problem-based learning, wherein students are given both agency and responsibility for the results. Towards this end, the structure must be at once bounded (directed and focused on certain areas of the law and legal education) and flexible (responsive to student input and decisionmaking). Perhaps the most significant weakness in the use of any constructed universe is the problem of authenticity. Efforts to replicate reality will inevitably fall short. There is simply too much uncertainty, randomness, and complexity in the real world. One way to address this shortcoming, however, is through design and agency. The scenarios with which students grapple and the structural design of the simulation must reflect the national security realm, even as students themselves must make choices that carry consequences. Indeed, to some extent, student decisions themselves must drive the evolution of events within the simulation.168 Additionally, while authenticity matters, it is worth noting that at some level the fact that the incident does not take place in a real-world setting can be a great advantage. That is, the simulation creates an environment where students can make mistakes and learn from these mistakes – without what might otherwise be devastating consequences. It also allows instructors to develop multiple points of feedback to enrich student learning in a way that would be much more difficult to do in a regular practice setting. NSL Sim 2.0 takes as its starting point the national security pedagogical goals discussed above. It works backwards to then engineer a classroom, cyber, and physical/simulation experience to delve into each of these areas. As a substantive matter, the course focuses on the constitutional, statutory, and regulatory authorities in national security law, placing particular focus on the interstices between black letter law and areas where the field is either unsettled or in flux. A key aspect of the course design is that it retains both the doctrinal and experiential components of legal education. Divorcing simulations from the doctrinal environment risks falling short on the first and third national security pedagogical goals: (1) analytical skills and substantive knowledge, and (3) critical thought. A certain amount of both can be learned in the course of a simulation; however, the national security crisis environment is not well-suited to the more thoughtful and careful analytical discussion. What I am thus proposing is a course design in which doctrine is paired with the type of experiential learning more common in a clinical realm. The former precedes the latter, giving students the opportunity to develop depth and breadth prior to the exercise. In order to capture problems related to adaptation and evolution, addressing goal [1(d)], the simulation itself takes place over a multi-day period. Because of the intensity involved in national security matters (and conflicting demands on student time), the model makes use of a multi-user virtual environment. The use of such technology is critical to creating more powerful, immersive simulations.169 It also allows for continual interaction between the players. Multi-user virtual environments have the further advantage of helping to transform the traditional teaching culture, predominantly concerned with manipulating textual and symbolic knowledge, into a culture where students learn and can then be assessed on the basis of their participation in changing practices.170 I thus worked with the Information Technology group at Georgetown Law to build the cyber portal used for NSL Sim 2.0. The twin goals of adaptation and evolution require that students be given a significant amount of agency and responsibility for decisions taken in the course of the simulation. To further this aim, I constituted a Control Team, with six professors, four attorneys from practice, a media expert, six to eight former simulation students, and a number of technology experts. Four of the professors specialize in different areas of national security law and assume roles in the course of the exercise, with the aim of pushing students towards a deeper doctrinal understanding of shifting national security law authorities. One professor plays the role of President of the United States. The sixth professor focuses on questions of professional responsibility. The attorneys from practice help to build the simulation and then, along with all the professors, assume active roles during the simulation itself. Returning students assist in the execution of the play, further developing their understanding of national security law. Throughout the simulation, the Control Team is constantly reacting to student choices. When unexpected decisions are made, professors may choose to pursue the evolution of the story to accomplish the pedagogical aims, or they may choose to cut off play in that area (there are various devices for doing so, such as denying requests, sending materials to labs to be analyzed, drawing the players back into the main storylines, and leaking information to the media). A total immersion simulation involves a number of scenarios, as well as systemic noise, to give students experience in dealing with the second pedagogical goal: factual chaos and information overload. The driving aim here is to teach students how to manage information more effectively. Five to six storylines are thus developed, each with its own arc and evolution. To this are added multiple alterations of the situation, relating to background noise. Thus, unlike hypotheticals, doctrinal problems, single-experience exercises, or even Tabletop exercises, the goal is not to eliminate external conditions, but to embrace them as part of the challenge facing national security lawyers. The simulation itself is problem-based, giving players agency in driving the evolution of the experience – thus addressing goal [2(c)]. This requires a realtime response from the professor(s) overseeing the simulation, pairing bounded storylines with flexibility to emphasize different areas of the law and the students’ practical skills. Indeed, each storyline is based on a problem facing the government, to which players must then respond, generating in turn a set of new issues that must be addressed. The written and oral components of the simulation conform to the fourth pedagogical goal – the types of situations in which national security lawyers will find themselves. Particular emphasis is placed on nontraditional modes of communication, such as legal documents in advance of the crisis itself, meetings in the midst of breaking national security concerns, multiple informal interactions, media exchanges, telephone calls, Congressional testimony, and formal briefings to senior level officials in the course of the simulation as well as during the last class session. These oral components are paired with the preparation of formal legal instruments, such as applications to the Foreign Intelligence Surveillance Court, legal memos, applications for search warrants under Title III, and administrative subpoenas for NSLs. In addition, students are required to prepare a paper outlining their legal authorities prior to the simulation – and to deliver a 90 second oral briefing after the session. To replicate the high-stakes political environment at issue in goals (1) and (5), students are divided into political and legal roles and assigned to different (and competing) institutions: the White House, DoD, DHS, HHS, DOJ, DOS, Congress, state offices, nongovernmental organizations, and the media. This requires students to acknowledge and work within the broader Washington context, even as they are cognizant of the policy implications of their decisions. They must get used to working with policymakers and to representing one of many different considerations that decisionmakers take into account in the national security domain. Scenarios are selected with high consequence events in mind, to ensure that students recognize both the domestic and international dimensions of national security law. Further alterations to the simulation provide for the broader political context – for instance, whether it is an election year, which parties control different branches, and state and local issues in related but distinct areas. The media is given a particularly prominent role. One member of the Control Team runs an AP wire service, while two student players represent print and broadcast media, respectively. The Virtual News Network (“VNN”), which performs in the second capacity, runs continuously during the exercise, in the course of which players may at times be required to appear before the camera. This media component helps to emphasize the broader political context within which national security law is practiced. Both anticipated and unanticipated decisions give rise to ethical questions and matters related to the fifth goal: professional responsibility. The way in which such issues arise stems from simulation design as well as spontaneous interjections from both the Control Team and the participants in the simulation itself. As aforementioned, professors on the Control Team, and practicing attorneys who have previously gone through a simulation, focus on raising decision points that encourage students to consider ethical and professional considerations. Throughout the simulation good judgment and leadership play a key role, determining the players’ effectiveness, with the exercise itself hitting the aim of the integration of the various pedagogical goals. Finally, there are multiple layers of feedback that players receive prior to, during, and following the simulation to help them to gauge their effectiveness. The Socratic method in the course of doctrinal studies provides immediate assessment of the students’ grasp of the law. Written assignments focused on the contours of individual players’ authorities give professors an opportunity to assess students’ level of understanding prior to the simulation. And the simulation itself provides real-time feedback from both peers and professors. The Control Team provides data points for player reflection – for instance, the Control Team member playing President may make decisions based on player input, giving students an immediate impression of their level of persuasiveness, while another Control Team member may reject a FISC application as insufficient. The simulation goes beyond this, however, focusing on teaching students how to develop (6) opportunities for learning in the future. Student meetings with mentors in the field, which take place before the simulation, allow students to work out the institutional and political relationships and the manner in which law operates in practice, even as they learn how to develop mentoring relationships. (Prior to these meetings we have a class discussion about mentoring, professionalism, and feedback). Students, assigned to simulation teams about one quarter of the way through the course, receive peer feedback in the lead-up to the simulation and during the exercise itself. Following the simulation the Control Team and observers provide comments. Judges, who are senior members of the bar in the field of national security law, observe player interactions and provide additional debriefing. The simulation, moreover, is recorded through both the cyber portal and through VNN, allowing students to go back to assess their performance. Individual meetings with the professors teaching the course similarly follow the event. Finally, students end the course with a paper reflecting on their performance and the issues that arose in the course of the simulation, develop frameworks for analyzing uncertainty, tension with colleagues, mistakes, and successes in the future. B. Substantive Areas: Interstices and Threats As a substantive matter, NSL Sim 2.0 is designed to take account of areas of the law central to national security. It focuses on specific authorities that may be brought to bear in the course of a crisis. The decision of which areas to explore is made well in advance of the course. It is particularly helpful here to think about national security authorities on a continuum, as a way to impress upon students that there are shifting standards depending upon the type of threat faced. One course, for instance, might center on the interstices between crime, drugs, terrorism and war. Another might address the intersection of pandemic disease and biological weapons. A third could examine cybercrime and cyberterrorism. This is the most important determination, because the substance of the doctrinal portion of the course and the simulation follows from this decision. For a course focused on the interstices between pandemic disease and biological weapons, for instance, preliminary inquiry would lay out which authorities apply, where the courts have weighed in on the question, and what matters are unsettled. Relevant areas might include public health law, biological weapons provisions, federal quarantine and isolation authorities, habeas corpus and due process, military enforcement and posse comitatus, eminent domain and appropriation of land/property, takings, contact tracing, thermal imaging and surveillance, electronic tagging, vaccination, and intelligence-gathering. The critical areas can then be divided according to the dominant constitutional authority, statutory authorities, regulations, key cases, general rules, and constitutional questions. This, then, becomes a guide for the doctrinal part of the course, as well as the grounds on which the specific scenarios developed for the simulation are based. The authorities, simultaneously, are included in an electronic resource library and embedded in the cyber portal (the Digital Archives) to act as a closed universe of the legal authorities needed by the students in the course of the simulation. Professional responsibility in the national security realm and the institutional relationships of those tasked with responding to biological weapons and pandemic disease also come within the doctrinal part of the course. The simulation itself is based on five to six storylines reflecting the interstices between different areas of the law. The storylines are used to present a coherent, non-linear scenario that can adapt to student responses. Each scenario is mapped out in a three to seven page document, which is then checked with scientists, government officials, and area experts for consistency with how the scenario would likely unfold in real life. For the biological weapons and pandemic disease emphasis, for example, one narrative might relate to the presentation of a patient suspected of carrying yersinia pestis at a hospital in the United States. The document would map out a daily progression of the disease consistent with epidemiological patterns and the central actors in the story: perhaps a U.S. citizen, potential connections to an international terrorist organization, intelligence on the individual’s actions overseas, etc. The scenario would be designed specifically to stress the intersection of public health and counterterrorism/biological weapons threats, and the associated (shifting) authorities, thus requiring the disease initially to look like an innocent presentation (for example, by someone who has traveled from overseas), but then for the storyline to move into the second realm (awareness that this was in fact a concerted attack). A second storyline might relate to a different disease outbreak in another part of the country, with the aim of introducing the Stafford Act/Insurrection Act line and raising federalism concerns. The role of the military here and Title 10/Title 32 questions would similarly arise – with the storyline designed to raise these questions. A third storyline might simply be well developed noise in the system: reports of suspicious activity potentially linked to radioactive material, with the actors linked to nuclear material. A fourth storyline would focus perhaps on container security concerns overseas, progressing through newspaper reports, about containers showing up in local police precincts. State politics would constitute the fifth storyline, raising question of the political pressures on the state officials in the exercise. Here, ethnic concerns, student issues, economic conditions, and community policing concerns might become the focus. The sixth storyline could be further noise in the system – loosely based on current events at the time. In addition to the storylines, a certain amount of noise is injected into the system through press releases, weather updates, private communications, and the like. The five to six storylines, prepared by the Control Team in consultation with experts, become the basis for the preparation of scenario “injects:” i.e., newspaper articles, VNN broadcasts, reports from NGOs, private communications between officials, classified information, government leaks, etc., which, when put together, constitute a linear progression. These are all written and/or filmed prior to the exercise. The progression is then mapped in an hourly chart for the unfolding events over a multi-day period. All six scenarios are placed on the same chart, in six columns, giving the Control Team a birds-eye view of the progression. C. How It Works As for the nuts and bolts of the simulation itself, it traditionally begins outside of class, in the evening, on the grounds that national security crises often occur at inconvenient times and may well involve limited sleep and competing demands.171 Typically, a phone call from a Control Team member posing in a role integral to one of the main storylines, initiates play. Students at this point have been assigned dedicated simulation email addresses and provided access to the cyber portal. The portal itself gives each team the opportunity to converse in a “classified” domain with other team members, as well as access to a public AP wire and broadcast channel, carrying the latest news and on which press releases or (for the media roles) news stories can be posted. The complete universe of legal authorities required for the simulation is located on the cyber portal in the Digital Archives, as are forms required for some of the legal instruments (saving students the time of developing these from scratch in the course of play). Additional “classified” material – both general and SCI – has been provided to the relevant student teams. The Control Team has access to the complete site. For the next two (or three) days, outside of student initiatives (which, at their prompting, may include face-to-face meetings between the players), the entire simulation takes place through the cyber portal. The Control Team, immediately active, begins responding to player decisions as they become public (and occasionally, through monitoring the “classified” communications, before they are released). This time period provides a ramp-up to the third (or fourth) day of play, allowing for the adjustment of any substantive, student, or technology concerns, while setting the stage for the breaking crisis. The third (or fourth) day of play takes place entirely at Georgetown Law. A special room is constructed for meetings between the President and principals, in the form of either the National Security Council or the Homeland Security Council, with breakout rooms assigned to each of the agencies involved in the NSC process. Congress is provided with its own physical space, in which meetings, committee hearings and legislative drafting can take place. State government officials are allotted their own area, separate from the federal domain, with the Media placed between the three major interests. The Control Team is sequestered in a different area, to which students are not admitted. At each of the major areas, the cyber portal is publicly displayed on large flat panel screens, allowing for the streaming of video updates from the media, AP wire injects, articles from the students assigned to represent leading newspapers, and press releases. Students use their own laptop computers for team decisions and communication. As the storylines unfold, the Control Team takes on a variety of roles, such as that of the President, Vice President, President’s chief of staff, governor of a state, public health officials, and foreign dignitaries. Some of the roles are adopted on the fly, depending upon player responses and queries as the storylines progress. Judges, given full access to each player domain, determine how effectively the students accomplish the national security goals. The judges are themselves well-experienced in the practice of national security law, as well as in legal education. They thus can offer a unique perspective on the scenarios confronted by the students, the manner in which the simulation unfolded, and how the students performed in their various capacities. At the end of the day, the exercise terminates and an immediate hotwash is held, in which players are first debriefed on what occurred during the simulation. Because of the players’ divergent experiences and the different roles assigned to them, the students at this point are often unaware of the complete picture. The judges and formal observers then offer reflections on the simulation and determine which teams performed most effectively. Over the next few classes, more details about the simulation emerge, as students discuss it in more depth and consider limitations created by their knowledge or institutional position, questions that arose in regard to their grasp of the law, the types of decision-making processes that occurred, and the effectiveness of their – and other students’ – performances. Reflection papers, paired with oral briefings, focus on the substantive issues raised by the simulation and introduce the opportunity for students to reflect on how to create opportunities for learning in the future. The course then formally ends.172 Learning, however, continues beyond the temporal confines of the semester. Students who perform well and who would like to continue to participate in the simulations are invited back as members of the control team, giving them a chance to deepen their understanding of national security law. Following graduation, a few students who go in to the field are then invited to continue their affiliation as National Security Law fellows, becoming increasingly involved in the evolution of the exercise itself. This system of vertical integration helps to build a mentoring environment for the students while they are enrolled in law school and to create opportunities for learning and mentorship post-graduation. It helps to keep the exercise current and reflective of emerging national security concerns. And it builds a strong community of individuals with common interests. CONCLUSION The legal academy has, of late, been swept up in concern about the economic conditions that affect the placement of law school graduates. The image being conveyed, however, does not resonate in every legal field. It is particularly inapposite to the burgeoning opportunities presented to students in national security. That the conversation about legal education is taking place now should come as little surprise. Quite apart from economic concern is the traditional introspection that follows American military engagement. It makes sense: law overlaps substantially with political power, being at once both the expression of government authority and the effort to limit the same. The one-size fits all approach currently dominating the conversation in legal education, however, appears ill-suited to address the concerns raised in the current conversation. Instead of looking at law across the board, greater insight can be gleaned by looking at the specific demands of the different fields themselves. This does not mean that the goals identified will be exclusive to, for instance, national security law, but it does suggest there will be greater nuance in the discussion of the adequacy of the current pedagogical approach. With this approach in mind, I have here suggested six pedagogical goals for national security. For following graduation, students must be able to perform in each of the areas identified – (1) understanding the law as applied, (2) dealing with factual chaos and uncertainty, (3) obtaining critical distance, (4) developing nontraditional written and oral communication skills, (5) exhibiting leadership, integrity, and good judgment in a high-stakes, highly-charged environment, and (6) creating continued opportunities for self-learning. They also must learn how to integrate these different skills into one experience, to ensure that they will be most effective when they enter the field. The problem with the current structures in legal education is that they fall short, in important ways, from helping students to meet these goals. Doctrinal courses may incorporate a range of experiential learning components, such as hypotheticals, doctrinal problems, single exercises, extended or continuing exercises, and tabletop exercises. These are important classroom devices. The amount of time required for each varies, as does the object of the exercise itself. But where they fall short is in providing a more holistic approach to national security law which will allow for the maximum conveyance of required skills. Total immersion simulations, which have not yet been addressed in the secondary literature for civilian education in national security law, may provide an important way forward. Such simulations also cure shortcomings in other areas of experiential education, such as clinics and moot court. It is in an effort to address these concerns that I developed the simulation model above. NSL Sim 2.0 certainly is not the only solution, but it does provide a starting point for moving forward. The approach draws on the strengths of doctrinal courses and embeds a total immersion simulation within a course. It makes use of technology and physical space to engage students in a multi-day exercise, in which they are given agency and responsibility for their decision making, resulting in a steep learning curve. While further adaptation of this model is undoubtedly necessary, it suggests one potential direction for the years to come.

#### Switch side debate is good-direct engagement, not abstract relation, with identities we do not identify with is critical to us to overcome the existential resentment we feel towards those with whom we disagree. Lack of switch-side facilitates a refusal to accept that our position is within question

Glover 10

[Robert, Professor of Political Science at University of Connecticut, Philosophy and Social Criticism, “Games without Frontiers?: Democratic Engagement, Agonistic Pluralism, and the Question of Exclusion”, Vol. 36, p. asp uwyo//amp]

In this vein, Connolly sees the goal of political engagement as securing a positive ‘ethos of engagement’ in relation to popular movements which alter existing assumptions, that is, a positive attitude towards attempts at pluralization. Connolly suggests we do so through thecultivation of two essential virtues: agonistic respect and critical responsiveness. 88 Agonistic respect is defined as a situation whereby each political actor arrives at an appreciation for the fact that their own self-definition is bound with that of others, as well as recognition of the degree to which each of these projections is profoundly contestable. 89 While Connolly notes that agonistic respect is a ‘kissing cousin’ of liberal tolerance, he distinguishes it by saying that the latter typically carries ‘the onus of being at the mercy of a putative majority that often construes its own position to be beyond question.’ 90 Thus, agonistic respect is a reciprocal democratic virtue meant to operate across relations of difference, and Connolly deploys it as a regulative ideal for the creation agonistic democratic spaces. 91 In a somewhat related way, the virtue of ‘critical responsiveness’ also attempts to move beyond liberal tolerance. 92 Critical responsiveness entails ‘ careful listening and presumptive generosity to constituencies struggling to move from an obscure or degraded subsistence below the field of recognition, justice, obligation, rights, or legitimacy to a place on one or more of those registers.’ 93 Critical responsiveness is not pity, charity, or paternalism but implies an enhanced degree of concern for others, driven by the cultivation of reciprocal empathic concern 21 for that which you are not. 94 This attitude cannot be developed in an abstract relation to these new and existing forms of radical cultural, political, religious, and philosophical difference. Critical responsiveness above all requires that one ‘get[s] a whiff of experiences heretofore alien to [us]’, recognizing that while this may be unsettling or cause discomfort, direct engagement is the means by which you, ‘work tactically on yourself and others to overcome existential resentment of this persistent condition of human being.’

### 2nd Off

### 1NC

#### The United States Federal Government should release people held for asserting their sovereignty or self-determination rights and cease from detaining such individuals in the future.

#### The Executive Branch of the United States should define limit the scope of associated forces to al-Qaeda, the Taliban, or those nations, organizations, or persons who enjoy close and well-established collaboration with al-Qaeda or the Taliban. The president should adhere to this order.

#### De Facto and De Jure self-binding create accountability from the courts and risk political alienation for going back on promises

Posner and Vermeule 2010 [Eric A. , Professor of Law at the University of Chicago Law School and Editor of The Journal of Legal Studies; Adrian , Harvard Law Professor, The Executive Unbound: After the Madisonian Republic, Oxford Press, p. 138-139//wyo-sc]

Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.59 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is "yes, at least to the same extent that a legislature can." Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.60 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future. A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies. More schematically, we may speak of formal and informal means of selfbinding: 1. The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. 2. The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.61 However, there may be political costs to repealing the order. This effect does not depend on the courts' willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal.

### 3rd Off

#### Al Qaeda is weak now but could recover if the US allows them the opportunity

McLaughlin 13

(John McLaughlin was a CIA officer for 32 years and served as deputy director and acting director from 2000-2004. He currently teaches at the Johns Hopkins University's School of Advanced International Studies and is a Non-Resident Senior Fellow at the Brookings Institution, ¶ 06:00 AM ET¶ Terrorism at a moment of transition7/12, http://security.blogs.cnn.com/2013/07/12/terrorism-at-a-moment-of-transition/)

A third major trend has to do with the debate underway among terrorists over tactics, targets, and ways to correct past errors.¶ On targets, jihadists are now pulled in many directions. Many experts contend they are less capable of a major attack on the U.S. homeland. But given the steady stream of surprises they’ve sprung – ranging from the 2009 “underwear bomber” to the more recent idea of a surgically implanted explosive – it is hard to believe they’ve given up trying to surprise us with innovations designed to penetrate our defenses.¶ We especially should remain alert that some of the smaller groups could surprise us by pointing an attacker toward the United States, as Pakistan’s Tehrik e Taliban did in preparing Faizal Shazad for his attempted bombing of Times Square in 2010.¶ At the same time, many of the groups are becoming intrigued by the possibility of scoring gains against regional governments that are now struggling to gain or keep their balance – opportunities that did not exist at the time of the 9/11 attacks.¶ Equally important, jihadists are now learning from their mistakes, especially the reasons for their past rejection by populations where they temporarily gained sway.¶ Documents from al Qaeda in the Islamic Maghreb, discovered after French forces chased them from Mali, reveal awareness that they were too harsh on local inhabitants, especially women. They also recognized that they need to move more gradually and provide tangible services to populations – a practice that has contributed to the success of Hezbollah in Lebanon.¶ We are now seeing a similar awareness among jihadists in Syria, Tunisia, Libya, and Yemen. If these “lessons learned” take hold and spread, it will become harder to separate terrorists from populations and root them out.¶ Taken together, these three trends are a cautionary tale for those seeking to gauge the future of the terrorist threat.¶ Al Qaeda today may be weakened, but its wounds are far from fatal. It is at a moment of transition, immersed in circumstances that could sow confusion and division in the movement or, more likely, extend its life and impart new momentum.¶ So if we are ever tempted to lower our guard in debating whether and when this war might end, we should take heed of these trends and of the wisdom J. R. R. Tolkien has Eowyn speak in “Lord of the Rings”: "It needs but one foe to breed a war, not two ..."

#### Continued indefinite detention key to winning the war on terror

Hodgkinson ‘12

[Sandra L. Hodgkinson, former Chief of Staff for Deputy Secretary of Defense William J. Lynn, III and Deputy Assistant Secretary of Defense for Detainee Affairs and Distinguished Visiting Research Fellow at National Defense University, “Executive Power in a War Without End: Goldsmith, the Erosion of Executive Authority on Detention, and the End of the War on Terror,” CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW VOL. 45, Fall 2012, [http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1&2.pdf //](http://law.case.edu/journals/JIL/Documents/45CaseWResJIntlL1%262.pdf%20//) wyo-ch]

There is no such thing as a war without end. All wars come to an end, even though it may be hard to predict when that end will be. When President Woodrow Wilson first coined the phrase “the war to end all wars” when speaking to Congress about World War I39 or when President Roosevelt referred to World War II as the “Long War,”40 neither president could easily predict when the war would end. At some level of destruction, some level of defeat, or some level of fighting fatigue, one way or another, wars end. In a classic state on-state conflict, the typical ways to end a war are through a peace treaty, defeat, or surrender.41 World War I ended with the Treaty of Versailles,42 while World War II ended with Germany and Japan surrendering.43 Generally, upon conclusion of the war, it is presumed that most, if not all, members of the country’s regular armed forces will lay down their arms and comply with the outcome of the war. This, however, is not always the case. Many modern conflicts have evolved into protracted insurgencies when non-government controlled forces are not ready to give up the fight, and are able to continue to fight. The recent example of Iraq is illustrative, as Iraqi insurgents have continued to destabilize the country long after the official war has ended.44 Northern Ireland is another example of a country where the fighting continued long after the peace process was in place.45 There is a path to victory for the United States in this war against the transnational non-state actor al-Qaeda, even if every member of al-Qaeda does not lay down his arms in surrender or acknowledge defeat. There are four steps on this path to victory. First, the United States and its allies must kill or capture the senior al-Qaeda leadership. We are doing that. The point regarding kill or capture is critical, as a state cannot have a policy that requires it to kill an enemy who surrenders.46 There must always be a detention option available, which is why military detention must remain a legitimate tool for use in this and future wars.47 Drone strikes are a principal tool being used to kill senior al-Qaeda leadership who are not encountered directly on the traditional kinetic battlefield and are a legitimate use of force under the law of armed conflict.48 Second, the United States and its allies must cut off al-Qaeda’s methods of travel. We have been working with allies consistently on this issue since September 11, 2001, through a vast array of terrorist watch lists, which identify terrorists and prevent them from traveling, particularly to areas where they may pose a threat to United States, allied forces, or other personnel.49 Third, the United States and its allies must cut off al-Qaeda’s funding sources. We have been working with allies to freeze assets associated with terrorism in banks around the world, while at the same time creating new laws that criminalize financial support to terrorists.50 The United Nations has called on countries to cut off terrorist means and methods of travel, and their funding.51 Lastly, the United States and NATO allies will have to continue efforts to “win the peace” in Afghanistan and elsewhere through continued counter-insurgency efforts, rehabilitation and reintegration programs, and developmental assistance and funding.52 Achieving these objectives will not make every member of al Qaeda and their affiliated groups lay down their weapons, but it will make their ability to act on a global scale in the way that they did on 9/11 and the years following much more difficult. They will become, in essence, splintered or localized terrorist groups, with the ability to certainly carry out harm and terrorist threats on a more localized scale, but not on the same global scale on which al-Qaeda has operated. As a result, they will be more similar to the other terrorist groups in the world that the United States is currently not at war with, such as Hamas, Hezbollah, and FARC, despite the fact that al Qaeda could continue to be a threat, as these groups have been for decades and continue to be.53 However, the organization will no longer be a terrorist organization which behaves like a state actor engaged in a military conflict, and as a result, the United States will no longer be at war. As a matter of law and policy, the United States has been at war with al-Qaeda, the Taliban, and their affiliates and associates responsible for the attacks of 9/11.54 The early policy statements of the Bush Administration that we were in a “War on Terror” were policy statements, rather than statements of a legal nature,55 as the war was always confined to the groups that “planned, authorized, committed or aided” the 9/11 attacks as per the AUMF.56 Some have argued that both the Bush and Obama Administrations have fairly liberally interpreted this authority.57 It is the “warlike” characteristic of al-Qaeda’s attack and the AUMF that supported the U.S. response that gave both administrations the legitimacy that they did have to treat members of these forces as enemy combatants, killing them on the battlefield and in other types of targeted strikes. When al-Qaeda is no longer behaving like a military enemy, we should continue to treat them as we treat other terrorist groups around the world—using traditional methods of law enforcement. Achieving this military victory over al-Qaeda has another extremely significant implication for the United States. It will have to begin an orderly drawdown of the detainees remaining at Guantanamo Bay, consistent with the international law of war.58 In Iraq, during 2008–2009, the United States was able to drawdown nearly 25,000 detainees predominantly from the facilities in Camp Bucca and Camp Cropper over the course of about eighteen months as the conflict was ending.59 While it was a challenging process, it was achieved in an orderly and timely manner consistent with the laws of war. There are some people that would argue that we should keep the detainees at Guantanamo Bay locked away forever, or at least as long as one or every one of these detainees poses a threat to us.60 The detainees at Guantanamo Bay are not being held under a security detention framework, which would make their individual threat level relevant to an individualized determination. Instead, they are held under the law of war, so when that war is over, they must be repatriated or released.61 They may be tried for crimes they committed during the war, either at military commissions, Article III courts, or by host nations.62 Unless some new security detention framework is developed, which seems unlikely at present, the detainees who have not been tried and convicted must be repatriated or released consistent with every other war in history.

#### \*\*Constrained executive makes it impossible to respond to the rapid and existential nature of the threat posed by terrorism-strong, flexible executive key to check nuclear, chemical, and biological attacks

Royal 2011

[John Paul, Fellow of the Institute for World Politics, 2011, War Powers and the Age of Terrorism, <http://www.thepresidency.org/storage/Fellows2011/Royal-_Final_Paper.pdf>, uwyo//amp]

The international system itself and national security challenges to the United States in particular, underwent rapid and significant change in the first decade of the twenty-first century. War can no longer be thought about strictly in the terms of the system and tradition created by the Treaty of Westphalia over three and a half centuries ago. Non-state actors now possess a level of destructiveness formerly enjoyed only by nation states. Global terrorism, coupled with the threat of weapons of mass destruction developed organically or obtained from rogue regimes, presents new challenges to U.S. national security and place innovative demands on the Constitution’s system of making war. In the past, as summarized in the 9/11 Commission Report, threats emerged due to hostile actions taken by enemy states and their ability to muster large enough forces to wage war: “Threats emerged slowly, often visibly, as weapons were forged, armies conscripted, and units trained and moved into place. Because large states were more powerful, they also had more to lose. They could be deterred" (National Commission 2004, 362). This mindset assumed that peace was the default state for American national security. Today however, we know that threats can emerge quickly. Terrorist organizations half-way around the world are able to wield weapons of unparalleled destructive power. These attacks are more difficult to detect and deter due to their unconventional and asymmetrical nature. In light of these new asymmetric threats and the resultant changes to the international system, peace can no longer be considered the default state of American national security. Many have argued that the Constitution permits the president to use unilateral action only in response to an imminent direct attack on the United States. In the emerging security environment described above, pre-emptive action taken by the executive branch may be needed more often than when nation-states were the principal threat to American national interests. Here again, the 9/11 Commission Report is instructive as it considers the possibility of pre-emptive force utilized over large geographic areas due to the diffuse nature of terrorist networks: In this sense, 9/11 has taught us that terrorism against American interests “over there” should be regarded just as we regard terrorism against America “over here.” In this sense, the American homeland is the planet (National Commission 2004, 362). Furthermore, the report explicitly describes the global nature of the threat and the global mission that must take place to address it. Its first strategic policy recommendation against terrorism states that the: U.S. government must identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power (National Commission 2004, 367). Thus, fighting continues against terrorists in Afghanistan, Yemen, Iraq, Pakistan, the Philippines, and beyond, as we approach the tenth anniversary of the September 11, 2001 attacks. Proliferation of weapons of mass destruction (WMD), especially nuclear weapons, into the hands of these terrorists is the most dangerous threat to the United States. We know from the 9/11 Commission Report that Al Qaeda has attempted to make and obtain nuclear weapons for at least the past fifteen years. Al Qaeda considers the acquisition of weapons of mass destruction to be a religious obligation while “more than two dozen other terrorist groups are pursing CBRN [chemical, biological, radiological, and nuclear] materials” (National Commission 2004, 397). Considering these statements, rogue regimes that are openly hostile to the United States and have or seek to develop nuclear weapons capability such as North Korea and Iran, or extremely unstable nuclear countries such as Pakistan, pose a special threat to American national security interests. These nations were not necessarily a direct threat to the United States in the past. Now, however, due to proliferation of nuclear weapons and missile technology, they can inflict damage at considerably higher levels and magnitudes than in the past. In addition, these regimes may pursue proliferation of nuclear weapons and missile technology to other nations and to allied terrorist organizations. The United States must pursue condign punishment and appropriate, rapid action against hostile terrorist organizations, rogue nation states, and nuclear weapons proliferation threats in order to protect American interests both at home and abroad. Combating these threats are the “top national security priority for the United States…with the full support of Congress, both major political parties, the media, and the American people” (National Commission 2004, 361). Operations may take the form of pre-emptive and sustained action against those who have expressed hostility or declared war on the United States. Only the executive branch can effectively execute this mission, authorized by the 2001 AUMF. If the national consensus or the nature of the threat changes, Congress possesses the intrinsic power to rescind and limit these powers.

#### Terrorist retaliation causes nuclear war – draws in Russia and China

Ayson, 10

Robert Ayson, Professor of Strategic Studies and Director of the Centre for Strategic Studies: New Zealand at the Victoria University of Wellington, 2010 (“After a Terrorist Nuclear Attack: Envisaging Catalytic Effects,” Studies in Conflict & Terrorism, Volume 33, Issue 7, July, Available Online to Subscribing Institutions via InformaWorld)

A terrorist nuclear attack, and even the use of nuclear weapons in response by the country attacked in the first place, would not necessarily represent the worst of the nuclear worlds imaginable. Indeed, there are reasons to wonder whether nuclear terrorism should ever be regarded as belonging in the category of truly existential threats. A contrast can be drawn here with the global catastrophe that would come from a massive nuclear exchange between two or more of the sovereign states that possess these weapons in significant numbers. Even the worst terrorism that the twenty-first century might bring would fade into insignificance alongside considerations of what a general nuclear war would have wrought in the Cold War period. And it must be admitted that as long as the major nuclear weapons states have hundreds and even thousands of nuclear weapons at their disposal, there is always the possibility of a truly awful nuclear exchange taking place precipitated entirely by state possessors themselves. But these two nuclear worlds—a non-state actor nuclear attack and a catastrophic interstate nuclear exchange—are not necessarily separable. It is just possible that some sort of terrorist attack, and especially an act of nuclear terrorism, could precipitate a chain of events leading to a massive exchange of nuclear weapons between two or more of the states that possess them. In this context, today’s and tomorrow’s terrorist groups might assume the place allotted during the early Cold War years to new state possessors of small nuclear arsenals who were seen as raising the risks of a catalytic nuclear war between the superpowers started by third parties. These risks were considered in the late 1950s and early 1960s as concerns grew about nuclear proliferation, the so-called n+1 problem. t may require a considerable amount of imagination to depict an especially plausible situation where an act of nuclear terrorism could lead to such a massive inter-state nuclear war. For example, in the event of a terrorist nuclear attack on the United States, it might well be wondered just how Russia and/or China could plausibly be brought into the picture, not least because they seem unlikely to be fingered as the most obvious state sponsors or encouragers of terrorist groups. They would seem far too responsible to be involved in supporting that sort of terrorist behavior that could just as easily threaten them as well. Some possibilities, however remote, do suggest themselves. For example, how might the United States react if it was thought or discovered that the fissile material used in the act of nuclear terrorism had come from Russian stocks,40 and if for some reason Moscow denied any responsibility for nuclear laxity? The correct attribution of that nuclear material to a particular country might not be a case of science fiction given the observation by Michael May et al. that while the debris resulting from a nuclear explosion would be “spread over a wide area in tiny fragments, its radioactivity makes it detectable, identifiable and collectable, and a wealth of information can be obtained from its analysis: the efficiency of the explosion, the materials used and, most important … some indication of where the nuclear material came from.”41 Alternatively, if the act of nuclear terrorism came as a complete surprise, and American officials refused to believe that a terrorist group was fully responsible (or responsible at all) suspicion would shift immediately to state possessors. Ruling out Western ally countries like the United Kingdom and France, and probably Israel and India as well, authorities in Washington would be left with a very short list consisting of North Korea, perhaps Iran if its program continues, and possibly Pakistan. But at what stage would Russia and China be definitely ruled out in this high stakes game of nuclear Cluedo? In particular, if the act of nuclear terrorism occurred against a backdrop of existing tension in Washington’s relations with Russia and/or China, and at a time when threats had already been traded between these major powers, would officials and political leaders not be tempted to assume the worst? Of course, the chances of this occurring would only seem to increase if the United States was already involved in some sort of limited armed conflict with Russia and/or China, or if they were confronting each other from a distance in a proxy war, as unlikely as these developments may seem at the present time. The reverse might well apply too: should a nuclear terrorist attack occur in Russia or China during a period of heightened tension or even limited conflict with the United States, could Moscow and Beijing resist the pressures that might rise domestically to consider the United States as a possible perpetrator or encourager of the attack? Washington’s early response to a terrorist nuclear attack on its own soil might also raise the possibility of an unwanted (and nuclear aided) confrontation with Russia and/or China. For example, in the noise and confusion during the immediate aftermath of the terrorist nuclear attack, the U.S. president might be expected to place the country’s armed forces, including its nuclear arsenal, on a higher stage of alert. In such a tense environment, when careful planning runs up against the friction of reality, it is just possible that Moscow and/or China might mistakenly read this as a sign of U.S. intentions to use force (and possibly nuclear force) against them. In that situation, the temptations to preempt such actions might grow, although it must be admitted that any preemption would probably still meet with a devastating response.

### 4th Off

#### They undermine the notion of truth—protects the ruling class and destroys class struggle

Mas'ud Zavarzadeh, Department of English, Syracuse University, "The stupidity that consumption is just as productive as production": in the shopping mall of the post-al left.” *College Literature,* October 01, 1994

This distributionist/consumptionist theory that underwrites the economic interests of the (upper)middle classes is the foundation for all the texts in this exchange and their pedagogies. A good pedagogy in these texts therefore is one in which power is distributed evenly in the classroom: a pedagogy that constructs a classroom of consensus not antagonism (thus opposition to "politicizing the classroom" in OR-1 [Hogan]) and in which knowledge (concept) is turned--through the process that OR-3 [McCormick] calls "translation"--into "consumable" EXPERIENCES. The more "intense" the experience, as the anecdotes of [McCormick] show, the more successful the pedagogy. In short, it is a pedagogy that removes the student from his/her position in the social relations of production and places her/him in the personal relation of consumption: specifically, EXPERIENCE of/as the consumption of pleasure. The post-al logic obscures the laws of motion of capital by very specific assumptions and moves--many of which are rehearsed in the texts here. I will discuss some of these, mention others in passing, and hint at several more. (I have provided a full account of all these moves in my "Post-ality" in Transformation 1.) I begin by outlining the post-al assumptions that "democracy" is a never-ending, open "dialogue" and "conversation" among multicultural citizens; that the source of social inequities is "power"; that a post-class hegemonic "coalition," as OR-5 [Williams] calls it--and not class struggle--is the dynamics of social change; that truth (as R-1 [Hill] writes) is an "epistemological gulag"-- a construct of power--and thus any form of "ideology critique" that raises questions of "falsehood" and "truth" ("false consciousness") does so through a violent exclusion of the "other" truths by, in [Williams'] words, "staking sole legitimate claim" to the truth in question. Given the injunction of the post-al logic against binaries (truth/falsehood), the project of "epistemology" is displaced in the ludic academy by "rhetoric." The question, consequently, becomes not so much what is the "truth" of a practice but whether it "works." (Rhetoric has always served as an alibi for pragmatism.) Therefore, [France] is not interested in whether my practices are truthful but in what effects they might have: if College Literature publishes my texts would such an act (regardless of the "truth" of my texts) end up "cutting our funding?" [he] asks. A post-al leftist like [France], in short, "resists" the state only in so far as the state does not cut [his] "funding." Similarly, it is enough for a cynical pragmatist like [Williams] to conclude that my argument "has little prospect of effectual force" in order to disregard its truthfulness. The post-al dismantling of "epistemology" and the erasure of the question of "truth," it must be pointed out, is undertaken to protect the economic interests of the ruling class. If the "truth question" is made to seem outdated and an example of an orthodox binarism ([Hill]), any conclusions about the truth of ruling class practices are excluded from the scene of social contestation as a violent logocentric (positivistic) totalization that disregards the "difference" of the ruling class. This is why a defender of the ruling class such as [Hill] sees an ideology critique aimed at unveiling false consciousness and the production of class consciousness as a form of "epistemological spanking." It is this structure of assumptions that enables [France] to answer my question, "What is wrong with being dogmatic?" not in terms of its truth but by reference to its pragmatics (rhetoric): what is "wrong" with dogmatism, [he] says, is that it is violent rhetoric ("textual Chernobyl") and thus Stalinist. If I ask what is wrong with Stalinism, again (in terms of the logic of [his] text) I will not get a political or philosophical argument but a tropological description.[6] The post-al left is a New Age Left: the "new new left" privileged by [Hill] and [Williams]--the laid-back, "sensitive," listening, and dialogic left of coalitions, voluntary work, and neighborhood activism (more on these later). It is, as I will show, anti-intellectual and populist; its theory is "bite size" (mystifying, of course, who determines the "size" of the "bite"), and its model of social change is anti-conceptual "spontaneity": May 68, the fall of the Berlin Wall, and, in [Hill's] text, Chiapas. In the classroom, the New Age post-al pedagogy inhibits any critique of the truth of students' statements and instead offers, as [McCormick] makes clear, a "counseling," through anecdotes, concerning feelings. The rejection of "truth" (as "epistemological gulag"--[Hill]), is accompanied by the rejection of what the post-al left calls "economism." Furthermore, the post-al logic relativizes subjectivities, critiques functionalist explanation, opposes "determinism," and instead of closural readings, offers supplementary ones. It also celebrates eclecticism; puts great emphasis on the social as discourse and on discourse as always inexhaustible by any single interpretation--discourse (the social) always "outruns" and "exceeds" its explanation. Post-al logic is, in fact, opposed to any form of "explanation" and in favor of mimetic description: it regards "explanation" to be the intrusion of a violent outside and "description" to be a respectful, caring attention to the immanent laws of signification (inside). This notion of description--which has by now become a new dogma in ludic feminist theory under the concept of "mimesis" (D. Cornell, Beyond Accommodation)--regards politics to be always immanent to practices: thus the banalities about not politicizing the classroom in [Hogan's] "anarchist" response to my text[7] and the repeated opposition to binaries in all nine texts. The opposition to binaries is, in fact, an ideological alibi for erasing class struggle, as is quite clear in [France's] rejection of the model of a society "divided by two antagonistic classes" (see my Theory and its Other).

#### NEXT, THE DETERMINISM OF CAPITAL IS RESPONSIBLE FOR THE INSTRUMENTALIZATION OF ALL LIFE—THIS LOGIC MOBILIZES AND ALLOWS FOR THE 1AC’S SCENARIOS IN THE FIRST PLACE

DYER-WITHERFORD (professor of Library and Info. Sciences at the U of Western Ontario) 1999
[Nick. Cyber Marx: Cycles and Circuits of Struggle in High Technology Capitalism.]

For capitalism, the use of machines as organs of “will over nature” is an imperative. The great insight of the Frankfurt School—an insight subsequently improved and amplified by feminists and ecologists—was that capital’s dual project of dominating both humanity and nature was intimately tied to the cultivation of “instrumental reason” that systematically objectifies, reduces, quantifies and fragments the world for the purposes of technological control. Business’s systemic need to cheapen labor, cut the costs of raw materials, and expand consumer markets gives it an inherent bias toward the piling-up of technological power. This priority—enshrined in phrases such as “progress,” “efficiency,” “productivity,” “modernization,” and “growth”—assumes an automatism that is used to override any objection or alternative, regardless of the environmental and social consequences. Today, we witness global vistas of toxification, deforestation, desertification, dying oceans, disappearing ozone layers, and disintegrating immune systems, all interacting in ways that perhaps threaten the very existence of humanity and are undeniably inflicting social collapse, disease, and immiseration across the planet. The degree to which this project of mastery has backfired is all too obvious.

#### Vote Negative to validate and adopt the method of structural/historical criticism that is the 1NC.

#### METHOD IS THE FOREMOST POLITICAL QUESTION BECAUSE ONE MUST UNDERSTAND EXISTING SOCIAL TOTALITY BEFORE ONE CAN HOW TO ACT—Only an approach to knowledge that allows for critique rooted in enlightenment rationality provides the tools to diagnose praxis to resist capitalist oppression

TUMINO (Prof. English @ Pitt) 2001

[Stephen, “What is Orthodox Marxism and Why it Matters Now More than Ever”, Red Critique, p. online //wyo-tjc]

Any effective political theory will have to do at least two things: it will have to offer an integrated understanding of social practices and, based on such an interrelated knowledge, offer a guideline for praxis. My main argument here is that among all contesting social theories now, only Orthodox Marxism has been able to produce an integrated knowledge of the existing social totality and provide lines of praxis that will lead to building a society free from necessity. But first I must clarify what I mean by Orthodox Marxism. Like all other modes and forms of political theory, the very theoretical identity of Orthodox Marxism is itself contested—not just from non-and anti-Marxists who question the very "real" (by which they mean the "practical" as under free-market criteria) existence of any kind of Marxism now but, perhaps more tellingly, from within the Marxist tradition itself. I will, therefore, first say what I regard to be the distinguishing marks of Orthodox Marxism and then outline a short polemical map of contestation over Orthodox Marxism within the Marxist theories now. I will end by arguing for its effectivity in bringing about a new society based not on human rights but on freedom from necessity. I will argue that to know contemporary society—and to be able to act on such knowledge—one has to first of all know what makes the existing social totality. I will argue that the dominant social totality is based on inequality—not just inequality of power but inequality of economic access (which then determines access to health care, education, housing, diet, transportation, . . . ). This systematic inequality cannot be explained by gender, race, sexuality, disability, ethnicity, or nationality. These are all secondary contradictions and are all determined by the fundamental contradiction of capitalism which is inscribed in the relation of capital and labor. All modes of Marxism now explain social inequalities primarily on the basis of these secondary contradictions and in doing so—and this is my main argument—legitimate capitalism. Why? Because such arguments authorize capitalism without gender, race, discrimination and thus accept economic inequality as an integral part of human societies. They accept a sunny capitalism—a capitalism beyond capitalism. Such a society, based on cultural equality but economic inequality, has always been the not-so-hidden agenda of the bourgeois left—whether it has been called "new left," "postmarxism," or "radical democracy." This is, by the way, the main reason for its popularity in the culture industry—from the academy (Jameson, Harvey, Haraway, Butler,. . . ) to daily politics (Michael Harrington, Ralph Nader, Jesse Jackson,. . . ) to. . . . For all, capitalism is here to stay and the best that can be done is to make its cruelties more tolerable, more humane. This humanization (not eradication) of capitalism is the sole goal of ALL contemporary lefts (marxism, feminism, anti-racism, queeries, . . . ). Such an understanding of social inequality is based on the fundamental understanding that the source of wealth is human knowledge and not human labor. That is, wealth is produced by the human mind and is thus free from the actual objective conditions that shape the historical relations of labor and capital. Only Orthodox Marxism recognizes the historicity of labor and its primacy as the source of all human wealth. In this paper I argue that any emancipatory theory has to be founded on recognition of the priority of Marx's labor theory of value and not repeat the technological determinism of corporate theory ("knowledge work") that masquerades as social theory.

### Case

**Preventing extinction is the highest ethical priority – we should take action to prevent the Other from dying FIRST, only THEN can we consider questions of value to life**

Paul **Wapner**, associate professor and director of the Global Environmental Policy Program at American University, Winter **2003**, Dissent, online: http://www.dissentmagazine.org/menutest/archives/2003/wi03/wapner.htm

All attempts to listen to nature are social constructions-except one**. Even the most radical postmodernist must acknowledge the distinction between physical existence and non-existenc**e. As I have said, postmodernists accept that **there is a physical substratum to the phenomenal world even if they argue about the different meanings we ascribe to it. This acknowledgment of physical existence is crucial. We can't ascribe meaning to that which doesn't appear. What doesn't exist can manifest no character**. Put differently, yes, the postmodernist should rightly worry about interpreting nature's expressions. And all of us should be wary of those who claim to speak on nature's behalf (including environmentalists who do that). But **we need not doubt the simple idea that a prerequisite of expression is existence. This in turn suggests that preserving the nonhuman world**-in all its diverse embodiments-**must be seen by eco-critics as a fundamental good. Eco-critics must be supporters,** in some fashion, **of environmental preservation. Postmodernists reject the idea of a universal good. They rightly acknowledge the difficulty of identifying a common value given the multiple contexts of our value-producing activity**. In fact, **if there is one thing they vehemently scorn, it is the idea that there can be a value that stands above the individual contexts of human experience. Such a value would present itself as a metanarrative** and, as Jean-François Lyotard has explained, postmodernism is characterized fundamentally by its "incredulity toward meta-narratives." Nonetheless**, I can't see how postmodern critics can do otherwise than accept the value of preserving the** nonhuman **world**. The nonhuman **is the extreme "other"; it stands in contradistinction to humans** as a species**. In understanding the constructed quality of human experience and** the dangers of reification, postmodernism inherently advances an ethic of **respecting the "other.**" At the very least, respect **must involve ensuring that the "other"** actually **continues to exist.** In our day and age, **this requires us to take responsibility for protecting the actuality of the nonhuman. Instead, however, we are running roughshod over the earth'**s diversity of plants, animals, and ecosystems. Postmodern critics should find this particularly disturbing. If they don't, they deny their own intellectual insights and compromise their fundamental moral commitment.

#### Consequentialism is key to ethical decision making, because it ensures beings are treated as equal—any other approach to ethics is arbitrary because it considers one’s preferences as more important than others

Lillehammer, 2011

[Hallvard, Faculty of Philosophy Cambridge University, “Consequentialism and global ethics.” Forthcoming in M. Boylan, Ed., Global Morality and Justice: A Reader, Westview Press, Online, <http://www.phil.cam.ac.uk/teaching_staff/lillehammer/Consequentialism_and_Global_Ethics-1-2.pdf>] /Wyo-MB

Contemporary discussions of consequentialism and global ethics have been marked by a focus on examples such as that of the shallow pond. In this literature, distinctions are drawn and analogies made between different cases about which both the consequentialist and his or her interlocutor are assumed to have a more or less firm view. One assumption in this literature is that progress can be made by making judgements about simple actual or counterfactual examples, and then employing a principle of equity to the effect that like cases be treated alike, in order to work out what to think about more complex actual cases. It is only fair to say that in practice such attempts to rely only on judgements about simple cases have a tendency to produce trenchant stand-offs. It is important to remember, therefore, that for some consequentialists the appeal to simple cases is neither the only, nor the most basic, ground for their criticism of the ethical status quo. For some of the historically most prominent consequentialists the evidential status of judgements about simple cases depends on their derivability from basic ethical principles (plus knowledge of the relevant facts). Thus, in The Methods of Ethics, Henry Sidgwick argues that ethical thought is grounded in a small number of self-evident axioms of practical reason. The first of these is that we ought to promote our own good. The second is that the good of any one individual is objectively of no more importance than the good of any other (or, in Sidgwick’s notorious metaphor, no individual’s good is more important ‘from the point of view of the Universe’ than that of any other). The third is that we ought to treat like cases alike. Taken together, Sidgwick takes these axioms to imply a form of consequentialism. We ought to promote our own good. Yet since our own good is objectively no more important than the good of anyone else, we ought to promote the good of others as well. And in order to treat like cases alike, we have to weigh our own good against the good of others impartially, all other things being equal. iv It follows that the rightness of our actions is fixed by what is best for the entire universe of ethically relevant beings. To claim otherwise is to claim for oneself and one’s preferences a special status they do not possess. When understood along these lines, consequentialism is by definition a global ethics: the good of everyone should count for everyone, no matter their identity, location, or personal and social attachments, now or hereafter. v Some version of this view is also accepted by a number of contemporary consequentialists, including Peter Singer, who writes that it is ‘preferable to proceed as Sidgwick did: search for undeniable fundamental axioms, [and] build up a moral theory from them’ (Singer 1974, 517; Singer 1981). For these philosophers the question of our ethical duties to others is not only a matter of our responses to cases like the shallow pond. It is also a matter of whether these responses cohere with an ethics based on first principles. If you are to reject the consequentialist challenge, therefore, you will have to show what is wrong with those principles.

#### Legal progress is manifested and durable—struggles have been successful in challenging racism

Clark, 1995

[Leroy, professor of Law, Catholic University Law School, ARTICLE: A Critique of Professor Derrick A. Bell's Thesis of the Permanence of Racism and His Strategy of Confrontation, 73 Denv. U.L. Rev. 23, lexis nexis] /Wyo-MB

I must now address the thesis that there has been no evolutionary progress for blacks in America. Professor Bell concludes that blacks improperly read history if we believe, as Americans in general believe, that progress--racial, in the case of blacks--is "linear and evolutionary." n49 According to Professor Bell, the "American dogma of automatic progress" has never applied to blacks. n50 Blacks will never gain full equality, and "even those herculean efforts we hail as successful will produce no more than temporary 'peaks of progress,' short-lived victories that slide into irrelevance." n51¶ Progress toward reducing racial discrimination and subordination has never been "automatic," if that refers to some natural and inexorable process without struggle. Nor has progress ever been strictly "linear" in terms of unvarying year by year improvement, because the combatants on either side of the equality struggle have varied over time in their energies, resources, capacities, and the quality of their plans. Moreover, neither side could predict or control all of the variables which accompany progress or non-progress; some factors, like World War II, occurred in the international arena, and were not exclusively under American control.¶ With these qualifications, and a long view of history, blacks and their white allies achieved two profound and qualitatively different leaps forward toward the goal of equality: the end of slavery, and the Civil Rights Act of 1964. Moreover, despite open and, lately, covert resistance, black progress has never been shoved back, in a qualitative sense, to the powerlessness and abuse of periods preceding these leaps forward. n52

#### Eurocentric imperialism inevitable

Khodaee ‘11

[Esfandiar, American Studies at Tehran University, “Is imperialism Inevitable for America?” July 19, 2011, <http://peace.blog.com/2011/07/19/imperialism/>>//wyo-hdm]

Imperialism takes root from human nature. In history we see whenever a country had the power to expand its domination, it never hesitated. Historical examples are: Roman, Persian, Ottoman, Japanese, Chinese, French, Spanish, English, Portugal and Mongol Empires. Today American Empire is a live example having all the common features of previous Empires. Some common features of all Empires are: All these Empires have a clear date for emergence and a final date of weakness or even vanishing. For Example the Soviet Union Empire was born in the beginning of the twentieth century and collapsed in the end of the same century in 1991. All above mentioned Empires expanded to the point they could afford, and then declined. The “balance of power” theory presents a good perception. It reveals the fact that an imperialist power goes forward to the point that domestic and foreign pressure stops or remove it. Some of these Imperialist powers like the Soviet Union and America besides their realistic interests in Imperialism, have also ideological bases. The Soviet Union tried to expand Communism; America is trying to expand Capitalism. Today the United States of America both in realistic and idealistic point of view has chosen an Imperialistic way of dealing other countries. From the realistic point of view, America needs new markets to help its economy proceed, also for the sake of security America resorts to intervention in four corners of the world. In idealistic point of view American decision makers believe Capitalism through democracy is the best way for governing human societies. They sometimes use this ideology as a pretext for their realistic benefits. They know that any capitalist democracy in any corner of the world meets their interest and they have fewer problems with democracies around the world. For example Japan, Germany and Italy are no longer a threat to American security. So are India, Pakistan and South Africa. But countries like Iran, Venezuela and Sudan which are not in the realm of their alleged democracy will never meet their security standards. After the terrorist attack of 11 September 2001, US found concrete security excuses to militarily intervening Afghanistan and Iraq. Imperialism is inevitable for America because it roots in American history and culture. From its early days of being English colonies America has never stopped expanding. The first victims were native Indians who lost their lands. Then the French colonies in America, then the Britain Kingdom and then the Mexico which lost Texas, Arizona and New Mexico. From 1850s to 1890s because of civil war between the two systems of Capitalism and Slavery and then the Reconstruction, American expansion came to a halt. In 1898 America emerged in a full imperialistic appearance to defeat the frustrated Spain and gain Filipinas in Far East Asia. During the twentieth century the United States in an average of less than a year (nearly every 10 month) has intervened a country. You can’t find a country in the world which America hasn’t attacked, intervened or at least performed a quota. Imagine an Iraqi citizen living in 1607 in Baghdad accidently learns about the establishment of a new English colony in thousands of kilometers far west. He never could believe four hundred years later (in 2003) the same colony as a superpower would change the fate of his country and remove his president (Saddam). America will never give up its Imperialism nature, unless the balance of power blocks it. Today, after the cold war and at the advent of globalization the A twinkle of hope is the multinational treaties between groups of countries. Through these treaties may be in the future they can defend themselves.

#### Rejecting predictions fails—policymakers will default to preconceived threats—causes war. If we don’t have realism then critical self-reflection what fills in is a religious, racist fundamentalism

**Fitzsimmons 7**

[Michael, \*Washington DC defense analyst, “The Problem of Uncertainty in Strategic Planning”, Survival, Winter 06-07, p. online]

Buthandling even this weakerform of uncertaintyisstill quite challenging. If notsufficiently bounded, a high degree of variability in planning factors can exact a significant price on planning. The complexity presented bygreat variability strains the cognitive abilities ofeven the most sophisticated decision- makers.15 And even a robust decision-making process sensitive to cognitive limitationsnecessarily sacrifices depth of analysis for breadth as variability and complexity grows.It should follow, then, thatin planning under conditions of risk, variability in strategic calculation should be carefully tailored to availableanalytic anddecision processes.Why is this important? What harm can an imbalance between complexity and cognitive or analytic capacity in strategic planning bring?Stated simply, where analysis is silentor inadequate, the **personal beliefs of decision-makers fill the void**.As political scientist Richard Betts found in a study of strategic sur- prise, in ‘an environment that lacks clarity, abounds with conflicting data, and allows no time forrigorous assessment ofsources and validity, ambiguity allows intuition or wishfulness to drive interpretation ... The greater the ambiguity, the greater the impact of preconceptions.’16 The decision-making environmentthat Betts describes here isone of political-military crisis, not long-term strategic planning. But a strategist who sees uncertainty as the central fact of his environ- ment brings upon himself some of the pathologies of crisis decision-making. He invites ambiguity, takes conflicting data for granted and substitutes a priori scepticism about the validity of prediction for time pressure as a rationale for discounting the importance of analytic rigour.It is important not to exaggerate the extent to which data and ‘rigorous assessment’ can illuminate strategic choices. Ambiguity is a fact of life, and scepticism of analysis is necessary. Accordingly, the intuition and judgement of decision-makers will always be vital to strategy, and attempting to subordinate those factors to some formulaic, deterministic decision-making model would be both undesirable and unrealistic. All the same, there is danger in the opposite extreme as well. Without careful analysis of what is relatively likely and what is relatively unlikely, what will be the possible bases for strategic choices? A decision-maker with no faith in prediction is left with little more than a set of worst-case scenarios and his existing beliefs about the world to confront the choices before him.Those beliefs may be more or less well founded, but if they are not made explicit and subject to analysisand debate regarding their appli- cation to particular strategic contexts, they remain only beliefs and premises, rather than rational judgements.Even at their best, such decisions are likely to be poorly understood by the organisations charged with their implementation. At their worst,such decisions may be poorly understood by the decision-makers themselves.

#### We think enlightenment principles are good when used through postpositivism—allows a steady basis of truth, while still allowing the possibility of critique and mixed modes of analysis, it is the best epistemological middle ground

#### Rejection of enlightenment based on experiential truth creates the same hierarchy it criticized in eurocentrism

**DISCH ‘93** (Lisa J.; Professor of Political Theory – University of Minnesota, “More Truth Than Fact: Storytelling as Critical Understanding in the Writings of Hannah Arendt,” Political Theory 21:4, November)

What Hannah Arendt called “my old fashioned storytelling”7 is at once the most elusive and the most provocative aspect of her political philosophy. The apologies she sometimes made for it are well known, but few scholars have attempted to discern from these “scattered remarks” as statement of epistemology or method.8 Though Arendt alluded to its importance throughout her writings in comments like the one that prefaces this essay, this offhandedness left an important question about storytelling unanswered: how can thought that is “bound” to experience as its only “guidepost” possibly be critical? I discern an answer to this question in Arendt’s conception of storytelling, which implicitly redefines conventional understandings of objectivity and impartiality. Arendt failed to explain what she herself termed a “rather unusual approach”9 to political theory because she considered methodological discussions to be self-indulgent and irrelevant to real political problems.10 This reticence did her a disservice because by failing to explain how storytelling creates a vantage point that is both critical and experiential she left herself open to charges of subjectivism.11 As Richard Bernstein has argued, however, what makes Hannah Arendt distinctive is that she is neither a subjectivist nor a foundationalist but, rather, attempts to move “beyond objectivism and relativism.”12 I argue that Arendt’s apologies for her storytelling were disingenuous; she regarded it not as an anachronistic or nostalgic way of thinking but as an innovative approach to critical understanding. Arendt’s storytelling proposes an alternative to the model of impartiality defined as detached reasoning. In Arendt’s terms, impartiality involves telling oneself the story of an event or situation form the plurality of perspectives that constitute it as a public phenomenon. This critical vantage point, not from outside but from within a plurality of contesting standpoints, is what I term “situated impartiality.” Situated impartial knowledge is neither objective disinterested nor explicitly identified with a single particularistic interest. Consequently, its validity does not turn on what Donna Haraway calls the “god trick,” the claim to an omnipotent, disembodied vision that is capable of “seeing everything from nowhere.”13 But neither does it turn on a claim to insight premised on the experience of subjugation, which purportedly gives oppressed peoples a privileged understanding of structures of domination and exonerates them of using power to oppress. The two versions of standpoint claims – the privileged claim to disembodied vision and the embodied claim to “antiprivilege” from oppression – are equally suspect because they are simply antithetical. Both define knowledge positionally, in terms of proximity to power; they differ only in that they assign the privilege of “objective” understanding to opposite poles of the knowledge/power axis. Haraway argues that standpoint claims are insufficient as critical theory because they ignore the complex of social relations that mediate the connection between knowledge and power. She counters that any claim to knowledge, whether advanced by the oppressed or their oppressors, is partial. No one can justifiably lay claim to abstract truth, Haraway argues, but only to “embodied objectivity,” which she argues “means quite simply situated knowledges.”14 There is a connection between Arendt’s defense of storytelling and Haraway’s project, in that both define theory as a critical enterprise whose purpose is not to defend abstract principles or objective facts but to tell provocative stories that invite contestation form rival perspectives.15

# 2NC

#### Governments have ethical obligations to promote the welfare of everyone – even if they win their ethics framework preventing our disad impact is still an ethical imperative

Tim Stelzig, Attorney Advisor in the Competition Policy Division of the FCC's Wireline Competition Bureau, former associate with Arnold & Porter in Washington, D.C., JD from the University of Pennsylvania Law School, March 1998, University of Pennsylvania Law Review, 146 U. Pa. L. Rev. 901, p. 959

Libertarians have argued that such a state violates deontological norms, that governmental intervention going beyond what is minimally necessary to preserve social order is not justified. Deontology does not require such a timid state and, moreover, finds desirable a state which promotes the general welfare to the fullest extent possible, even if in so doing it acts in ways deontologically objectionable for anyone other than one filling the government's unique role in society. More specifically, I argued that the government must consequentially justify its policy choices. The elegance of this particular rationale for the contours of permissible governmental action is that it remains a deontological justification at base. One of the worries of full-blown consequentialism is that it requires too much, that any putative right may be set aside if doing so would produce greater good. The justification offered here does not suffer that flaw. The distributive exemption does not permit that any one be sacrificed for the betterment of others; rather, it only permits a redistribution of inevitable harms, a diversion of an existing threatened harm to many such that it results in harm to fewer individuals. The result of this application of the distributive exemption is a government that fundamentally seeks to promote to the fullest extent possible the welfare of all; a government that respects the rights of its citizens; and a government that realizes that its own intervention can have consequences counterproductive to the state's fundamental goal of general welfare that should be avoided for that reason. Such a state is a worthy totem, and accords with our most cherished principles molded through centuries of grappling with difficult legal and moral issues. Deontological premises have justified a plausible and attractive version of the liberal state in which consequential justification predominates, but rights are not neglected. This conclusion should be both surprising and reassuring to the deontologist - surprising because deontology and consequentialism are typically understood to be in opposition, and reassuring because most people's intuitions that the state is permitted to reason consequentially are firmly entrenched. To the degree that deontology could not account for these intuitions, deontology would be that much less credible.

#### Government action shouldn’t be subject to the same ethical rules that apply to individuals because of the duty to provide for an entire society. The most ethical mode of policymaking is one that recognizes necessary sacrifices for the common good.

Tim Stelzig, Attorney Advisor in the Competition Policy Division of the FCC's Wireline Competition Bureau, former associate with Arnold & Porter in Washington, D.C., JD from the University of Pennsylvania Law School, March 1998, University of Pennsylvania Law Review, 146 U. Pa. L. Rev. 901, p. 957-958

Minimizing governmental harm is no simple matter. It involves complex calculations and the interweaving of policies of inaction with policies of civil, criminal, and regulatory action. However one thinks these processes ideally should work in detail, this conclusion comports well with broadly liberal [268](http://web.lexis-nexis.com/universe/document?_m=668ab52fcf195df459761ba6412684ee&_docnum=1&wchp=dGLbVlb-zSkVA&_md5=8f7d87cdf8313249d86c8d417ee6dcb6" \l "n268" \t "_self) notions of proper governmental action. The distributive exemption claims that the desirable role for government is to attempt to provide for the general welfare as consequentially calculated, while taking into account the cost of governmental intervention. Deontological principles of good standing have [\*958]  thus explained why the state is permitted to do that which would be deontologically impermissible for individuals to do. In short, an exception to deontology has swallowed up the rule with respect to state action.

#### States should act in consequentialist manners—this is necessary for global ethics, we must restrain the partial and subjective desires of individuals

Lillehammer, 2011

[Hallvard, Faculty of Philosophy Cambridge University, “Consequentialism and global ethics.” Forthcoming in M. Boylan, Ed., Global Morality and Justice: A Reader, Westview Press, Online, <http://www.phil.cam.ac.uk/teaching_staff/lillehammer/Consequentialism_and_Global_Ethics-1-2.pdf>] /Wyo-MB

First, all plausible forms of consequentialism are partly self-effacing. It is natural to think that our effective pursuit of impartial good favours an ethical division of labour. Each individual can be liberated from the task of aiming at impartial good directly provided the framework of social interaction is so adjusted that each individual’s pursuit of partial good also promotes impartial good. This indirect mechanism for the promotion of impartial good will sometimes require incentives for individuals to comply with social norms when complying is perceived to be against their individual interest. According to the consequentialist, the provision of such incentives is the ultimate rationale for social institutions such as families, communities, societies, or states (c.f. Harrison 2000). Thus, government is good because the instruments of state encourage individuals to pursue partial good in such a way as to benefit (or not undermine) impartial good. Furthermore, government can be good for the individual, for at least two reasons. First, the existence of government can enhance the individual pursuit of partial good so long as this pursuit does not conflict with rules designed to promote impartial good. One obvious example of this is publicly recognised standards of fair trade. Second, the existence of government can enhance the individual pursuit of impartial good by embedding individual effort within a wider network of impartially beneficial institutional action, thereby reducing the cost to the individual of acting in favour of impartial good. One obvious example of this is the provision of public services paid for by taxation. The latter feature is of particular interest in global ethics. For even if it follows from consequentialism that my own good is objectively of no more importance than the good of distant strangers, it does not follow that I am wrong in practice to be more interested in my own good than in the good of distant strangers. On the contrary, this kind of ethical partiality would be licensed by conseqentialism against the background of effective social institutions that promote impartial good, e.g. by appropriately taxing individuals who are dedicated to the promotion of partial goods and distributing the proceeds accordingly. The consequentialist complaint against existing forms of partiality is that the necessary conditions of impartially effective social institutions do not obtain, and that the actual amounts of suffering involved are so great that no appeal to the self-effacing aspects of consequentialism can excuse existing levels of indifference towards that suffering. According to this complaint, the world as we have it is not ethically well ordered enough for the self-effacing nature of consequentialism to commend our actual dispositions. We do not live in the best of all possible worlds, in which individual pursuit of partial good is guaranteed to promote the good of all. We live in an ethical disaster scenario, in which a tightening of the permissive norms of received morality is not only permissible, but ethically required.

#### Consequentialist ethics are necessary for states—it solves indifference by spurring groups to act to help others

Lillehammer, 2011

[Hallvard, Faculty of Philosophy Cambridge University, “Consequentialism and global ethics.” Forthcoming in M. Boylan, Ed., Global Morality and Justice: A Reader, Westview Press, Online, <http://www.phil.cam.ac.uk/teaching_staff/lillehammer/Consequentialism_and_Global_Ethics-1-2.pdf>] /Wyo-MB

In this respect, Singer’s way of presenting the consequentialist challenge is less than helpful. True, considered as one-off opportunities to display or acquire ethical virtue his examples may awaken us from our indifferent slumbers. Yet the practical significance of Singer’s discussion is that these are not rare or isolated cases, but persistent features of our social reality. Given this fact, it is impossible to draw any sensible practical conclusions without further consideration of prevailing norms and social institutions as they actually obtain in concrete historical circumstances. A consequentialist approach to these questions would obviously take as its ultimate criterion the overall tendency of such norms and institutions to promote impartial good (c.f. Sidgwick 1891). It is therefore reasonable to think that a consequentialist approach to global ethics should encourage individuals to act so as promote the development of impartially beneficial norms and institutions. Quite apart from writing a cheque for $5, this is something that any enfranchised member of a democratic state has a legally protected right to do. In exercising this right, it falls upon individuals to make difficult judgements about which, among the available alternatives, propose reasonable ways of handling the fact of massive human suffering in a global context in which people are related to each other not only qua individuals, but also qua members of the social entities of which they are a part. Thus, it is incumbent on us to reflect, in light of available evidence, on which part of the ethical burden is better placed on centralised systems of aid and development funded through tax receipts, donations and the like, and which part is better placed in the hands of private individuals. It is also incumbent on us to reflect on the extent to which different alternative practices are more or less effective in the prevention of suffering and injustice than other available alternatives (c.f. Pogge 1997; Ayittey 2005). In some cases, this will be a Herculean task. Either way, a systematic attitude of indifference is indefensible, both on consequentialist and non-consequentialist grounds. Even this modest conclusion is practically significant in the context of the widespread moral and political apathy seen in many contemporary societies. If so, there is a good case after all for returning to Singer’s example of the shallow pond, in all its naive simplicity.

#### There is always value to life, it is subjective—can’t determine for others

Schwartz 2004

[“A Value to Life: Who Decides and How?” www.fleshandbones.com/readingroom/pdf/399.pdf]

Those who choose to reason on this basis hope that if the quality of a life can be measured then the answer to whether that life has value to the individual can be determined easily. This raises special problems, however, because the idea of quality involves a value judgement, and value judgements are, by their essence, subject to indeterminate relative factors such as preferences and dislikes. Hence, quality of life is difficult to measure and will vary according to individual tastes, preferences and aspirations. As a result, no general rules or principles can be asserted that would simplify decisions about the value of a life based on its quality. Nevertheless, quality is still an essential criterion in making such decisions because it gives legitimacy to the possibility that rational, autonomous persons can decide for themselves that their own lives either are worth, or are no longer worth, living. To disregard this possibility would be to imply that no individuals can legitimately make such value judgements about their own lives and, if nothing else, that would be counterintuitive. 2 In our case, Katherine Lewis had spent 10 months considering her decision before concluding that her life was no longer of a tolerable quality. She put a great deal of effort into the decision and she was competent when she made it. Who would be better placed to make this judgement for her than Katherine herself? And yet, a doctor faced with her request would most likely be uncertain about whether Katherine’s choice is truly in her best interest, and feel trepidation about assisting her. We need to know which considerations can be used to protect the patient’s interests. The quality of life criterion asserts that there is a difference between the type of life and the fact of life. This is the primary difference between it and the sanctity criterion discussed on page 115. Among quality of life considerations rest three assertions: 1. there is relative value to life 2. the value of a life is determined subjectively 3. not all lives are of equal value. Relative value The first assertion, that life is of relative value, could be taken in two ways. In one sense, it could mean that the value of a given life can be placed on a scale and measured against other lives. The scale could be a social scale, for example, where the contributions or potential for contribution of individuals are measured against those of fellow citizens. Critics of quality of life criteria frequently name this as a potential slippery slope where lives would be deemed worthy of saving, or even not saving, based on the relative social value of the individual concerned. So, for example, a mother of four children who is a practising doctor could be regarded of greater value to the community than an unmarried accountant. The concern is that the potential for discrimination is too high. Because of the possibility of prejudice and injustice, supporters of the quality of life criterion reject this interpersonal construction in favour of a second, more personalized, option. According to this interpretation, the notion of relative value is relevant not between individuals but within the context of one person’s life and is measured against that person’s needs and aspirations. So Katherine would base her decision on a comparison between her life before and after her illness. The value placed on the quality of a life would be determined by the individual depending on whether he or she believes the current state to be relatively preferable to previous or future states and whether he or she can foresee controlling the circumstances that make it that way. Thus, the life of an athlete who aspires to participate in the Olympics can be changed in relative value by an accident that leaves that person a quadriplegic. The athlete might decide that the relative value of her life is diminished after the accident, because she perceives her desires and aspirations to be reduced or beyond her capacity to control. However, if she receives treatment and counselling her aspirations could change and, with the adjustment, she could learn to value her life as a quadriplegic as much or more than her previous life. This illustrates how it is possible for a person to adjust the values by which they appraise their lives. For Katherine Lewis, the decision went the opposite way and she decided that a life of incapacity and constant pain was of relatively low value to her. It is not surprising that the most vociferous protesters against permitting people in Katherine’s position to be assisted in terminating their lives are people who themselves are disabled. Organizations run by, and that represent, persons with disabilities make two assertions in this light. First, they claim that accepting that Katherine Lewis has a right to die based on her determination that her life is of relatively little value is demeaning to all disabled people, and implies that any life with a severe disability is not worth Write a list of three things that make living. Their second assertion is that with proper help, over time Katherine would be able to transform her personal outlook and find satisfaction in her life that would increase its relative value for her. The first assertion can be addressed by clarifying that the case of Katherine Lewis must not be taken as a general rule. Deontologists, who are interested in knowing general principles and duties that can be applied across all cases would not be very satisfied with this; they would prefer to be able to look to duties that would apply in all cases. Here, a case-based, context-sensitive approach is better suited. Contextualizing would permit freedom to act within a particular context, without the implication that the decision must hold in general. So, in this case, Katherine might decide that her life is relatively valueless. In another case, for example that of actor Christopher Reeve, the decision to seek other ways of valuing this major life change led to him perceiving his life as highly valuable, even if different in value from before the accident that made him a paraplegic. This invokes the second assertion, that Katherine could change her view over time. Although we recognize this is possible in some cases, it is not clear how it applies to Katherine. Here we have a case in which a rational and competent person has had time to consider her options and has chosen to end her life of suffering beyond what she believes she can endure. Ten months is a long time and it will have given her plenty of opportunity to consult with family and professionals about the possibilities open to her in the future. Given all this, it is reasonable to assume that Katherine has made a well-reasoned decision. It might not be a decision that everyone can agree with but if her reasoning process can be called into question then at what point can we say that a decision is sound? She meets all the criteria for competence and she is aware of the consequences of her decision. It would be very difficult to determine what arguments could truly justify interfering with her choice. The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

# 2NC

#### Strong West Key to solve genocide- turns Indigenous args

Boot 3

– CFR senior fellow (Max, American Imperialism?, www.attacberlin.de/fileadmin/Sommerakademie/Boot\_Imperialim\_fine.pdf, AG)

But, on the whole, U.S. imperialism has been the greatest force for good in the world during the past century. It has defeated the monstrous evils of communism and Nazism and lesser evils such as the Taliban and Serbian ethnic cleansing.

#### 2. War causes oppression

Goldstein 01

IR professor at American University (Joshua, War and Gender, p. 412, Google Books)

First, peace activists face a dilemma in thinking about causes of war and working for peace. **Many peace scholars and activists support the approach, “if you want peace, work for justice.”** Then, if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps. among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that **causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices**.9 So, “if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. **Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too**. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, **the emphasis on injustice as the main cause of war seems to be empirically inadequate**.

#### Causes more casualties- turns their conflation args- their aff enables terrorists to homogenize all life- even if we pick and choose who terrorist are it’os key to prevent mass casualties

Zimmerman 09

(Peter D., Department of War Studies, King’s College London, “Do We Really Need to Worry? Some Reflections on the Threat of Nuclear Terrorism,” Fall 2009, <http://www.coedat.nato.int/publications/datr4/01PeterZimmerman.pdf>) /wyo-mm

Mueller discounts the consequences of an improvised nuclear device in odd ways. He suggests that a one kiloton ground burst in New York’s Central Park would barely damage the buildings on the boundaries of the park. That is true, but the same bomb detonated a kilometer or two away could kill tens of thousands or even one hundred thousand people. If the explosion took place in the financial business district of London or New York – or Paris or Singapore – in the middle of the working day, there could be several hundred thousand dead or wounded from the immediate effects. And the fallout from any of these explosions, even the one in Central Park, would kill many tens of thousands more. And Mueller decries the statement that such a bomb could “destroy” a major city; he points out that only a small fraction of the city would be destroyed, just as only a fairly small part of Hiroshima died from a larger bomb. I find myself horrified at the effects of even a very small nuclear explosion in a city. Perhaps that is because I have worked at the Nevada Test Site and walked the terrain where, fifty years ago, the United States tested atomic bombs against real buildings, homes such as those Americans live in and cars such as those we drove then. The important fact to face is that – despite the nuclear Pollyannas who argue that the construction of an improvised nuclear device is too difficult for even a well-financed terrorist, that obtaining sufficient fissile materials is nearly impossible, that the theft of an intact weapon is not going to happen (any longer), and that we may safely relegate nuclear terrorists to the fantasies of nuclear alarmists and the subjects of bad television and movies – the probability of a nuclear terrorist attack in any given year remains significant. Whether the probability is 20 percent, 5 percent, or even as low as one percent, the consequences of an incident are enormous. Significant investment to deter, prevent, detect, and destroy a nuclear terror plot is required. So is investment and research into ways to mitigate the effects of an attack, should all of our defenses fail and a nuclear detonation occur in one of the great cities of the world.

#### Restraints spill over

Heder ’10

(Adam, J.D., magna cum laude , J. Reuben Clark Law School, Brigham Young University, “THE POWER TO END WAR: THE EXTENT AND LIMITS OF CONGRESSIONAL POWER,” St. Mary’s Law Journal Vol. 41 No. 3, <http://www.stmaryslawjournal.org/pdfs/Hederreadytogo.pdf>)

This constitutional silence invokes Justice Rehnquist’s oftquoted language from the landmark “political question” case, Goldwater v. Carter . 121 In Goldwater , a group of senators challenged President Carter’s termination, without Senate approval, of the United States ’ Mutual Defense Treaty with Taiwan. 122 A plurality of the Court held, 123 in an opinion authored by Justice Rehnquist, that this was a nonjusticiable political question. 124 He wrote: “In light of the absence of any constitutional provision governing the termination of a treaty, . . . the instant case in my view also ‘must surely be controlled by political standards.’” 125 Notably, Justice Rehnquist relied on the fact that there was no constitutional provision on point. Likewise, there is **no constitutional provision** on whether Congress has the legislative power to **limit, end, or otherwise redefine the scope of a war**. Though Justice Powell argues in Goldwater that the Treaty Clause and Article VI of the Constitution “add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone,” 126 **the same cannot be said about Congress’s legislative authority** to terminate or **limit a war** in a way that goes beyond its explicitly enumerated powers. There are no such similar provisions that would suggest Congress may decline to exercise its appropriation power but nonetheless legally order the President to cease all military operations. Thus, the case for deference to the political branches on this issue is even greater than it was in the Goldwater context. Finally, the Constitution does not imply any additional powers for Congress to end, limit, or redefine a war. The textual and historical evidence suggests the Framers purposefully **declined to grant Congress such powers**. And as this Article argues, granting Congress this power would be **inconsistent with the general war powers structure of the Constitution.** Such a reading of the Constitution would **unnecessarily empower Congress** and **tilt the scales heavily in its favor**. More over, it **would strip the President of his Commander in Chief authority** to direct the movement of troops at a time **when the Executive’s expertise is needed.** 127 And fears that the President will grow too powerful are unfounded, given the reasons noted above. 128 In short, the Constitution does not impliedly afford Congress any authority to prematurely terminate a war above what it explicitly grants. 129 Declaring these issues nonjusticiable political questions would be the most practical means of balancing the textual and historical demands, the structural demands, and the practical demands that complex modern warfare brings . Adjudicating these matters would only lead the courts to engage in impermissible line drawing — lines that would both confus e the issue and add layers to the text of the Constitution in an area where the Framers themselves declined to give such guidance.

### Evans

No link that al qaeda can or will use nukes, says want to and tryg, need ev that have and would use them against the US- not a lot of ev that says it would lead to extinction- arguing about excintcion claims being Eurocentric- more persuasive in the context of the 2NR- Ayson says good chance Russia/China, but no internal link to extinction that the US will use nukes- either read ev that includes targeting on other countries-

Aff wins concealing DA=

If you win on strat in the 2NR- need to win link to how the aff gets rid of that- we treat terror as an existential threat in the squo- make arg about how the aff eliminates terror

#### Securitzation of terrorism is key to solving war on terror

Vultee 2010

[Fred Vultee, PhD in Journalism, Associate Professor at Wayne State, 2010, Securitization: A new approach to framing and media portrayals of the "war on terror", <http://citation.allacademic.com/meta/p_mla_apa_research_citation/2/0/3/8/8/pages203884/p203884-2.php>, uwyo//amp]

What is happening when news accounts portray the effort to contain and prevent political violence as the formal War on Terror or the dubious “war on terror”? A promising explanation lies in securitization theory, a recent outgrowth of security studies. Securitization can be thought of as a particular form of framing. When an issue has been securitized, a political actor has been able to cast it as an existential threat – an imminent peril to the physical, cultural, or social health of the community – and has gained a degree of public assent to use extraordinary measures to combat that threat. The role of the news media in such a process is essential. Media frames are the lens through which the public sees an issue like terrorism or immigration as a matter best dealt with through the normal workings of law enforcement and politics or as a crisis that requires extreme measures.

#### Third, We’re winning the war on terrorism – detention is why

Thiessen 12

(Marc Thiessen, a fellow at the American Enterprise Institute, is a columnist and the author of "Courting Disaster." He was chief speech writer for President George W. Bush and Secretary of Defense Donald Rumsfeld. , “no intelligence without detention”, 11/18/2012, http://www.nytimes.com/roomfordebate/2012/11/18/should-obama-close-guantanamo-and-end-military-tribunals/dead-terrorists-cant-give-us-intelligence)

Dead terrorists cannot tell you their plans for new attacks. When we kill high-value terrorists, we vaporize all the intelligence they possess — information we cannot get anywhere else about Al Qaeda’s operations, recruits, safe houses, communications and plans for new attacks. We need this intelligence to save lives.¶ As the author Mark Bowden makes clear in his new book, "The Finish," intelligence from captured terrorists played an important role in the operation that killed Osama bin Laden. The Obama administration uses the treasure trove of intelligence it inherited from the Bush administration every day. But with each passing year, that intelligence becomes increasingly dated. New leaders rise through the ranks. New plots are conceived. And new networks form in places like Yemen, Somalia, Mali and eastern Libya, about which we know little.

#### Military detention is key to combating terrorism

Tomatz 13

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In bringing the conference report to the Senate floor, which all 26 Senate conferees signed, Senator Carl Levin emphasized the depth and breadth of flexibility left to the Executive branch. As he explained, the final bill does not restrain law enforcement agencies from conducting investigations or interrogations. n87 "If and when a determination is made that a suspect is a foreign al-Qaeda terrorist, that person would be slated for transfer to military custody under procedures written by the Executive branch." n88 Importantly, even after transfer "all existing law enforcement tools remain available to the FBI and other law enforcement agencies." n89 Military detention and military commissions trials for foreign al-Qaeda terrorists may enjoy Congressional preference, but are not the only means of dealing with foreign terrorists in what is fundamentally an all-in approach designed to give the Executive primary and residual authorities to deal with a complex threat. A preference for military detention ensures the availability of established tactics, techniques and procedures not necessarily present in the civilian justice system, and is ultimately meant to enhance intelligence gathering and prevent dangerous enemy forces from returning to the fight.

#### The aff results in catastrophic terrorism---releases terrorists and kills intel gathering

Goldsmith 9

Jack, Henry L. Shattuck Professor at Harvard Law School, 2/4/09, “Long-Term Terrorist Detention and Our National Security Court,” http://www.brookings.edu/~/media/research/files/papers/2009/2/09%20detention%20goldsmith/0209\_detention\_goldsmith.pdf

These three concerns challenge the detention paradigm. They do nothing to eliminate the need for detention to prevent detainees returning to the battlefield. But many believe that we can meet this need by giving trials to everyone we want to detain and then incarcerating them under a theory of conviction rather than of military detention. I disagree. For many reasons, it is too risky for the U.S. government to deny itself the traditional military detention power altogether, and to commit itself instead to try or release every suspected terrorist. ¶ For one thing, military detention will be necessary in Iraq and Afghanistan for the foreseeable future. For another, we likely cannot secure convictions of all of the dangerous terrorists at Guantánamo, much less all future dangerous terrorists, who legitimately qualify for non-criminal military detention. The evidentiary and procedural standards of trials, civilian and military alike, are much higher than the analogous standards for detention. With some terrorists too menacing to set free, the standards will prove difficult to satisfy. Key evidence in a given case may come from overseas and verifying it, understanding its provenance, or establishing its chain of custody in the manners required by criminal trials may be difficult. This problem is exacerbated when evidence was gathered on a battlefield or during an armed skirmish. The problem only grows when the evidence is old. And perhaps most importantly, the use of such evidence in a criminal process may compromise intelligence sources and methods, requiring the disclosure of the identities of confidential sources or the nature of intelligence-gathering techniques, such as a sophisticated electronic interception capability. ¶ Opponents of non-criminal detention observe that despite these considerations, the government has successfully prosecuted some Al Qaeda terrorists—in particular, Zacharias Moussaoui and Jose Padilla. This is true, but it does not follow that prosecutions are achievable in every case in which disabling a terrorist suspect represents a surpassing government interest. Moreover, the Moussaoui and Padilla prosecutions highlight an under-appreciated cost of trials, at least in civilian courts. The Moussaoui and Padilla trials were messy affairs that stretched, and some observers believe broke, our ordinary criminal trial conceptions of conspiracy law and the rights of the accused, among other things. The Moussaoui trial, for example, watered down the important constitutional right of the defendant to confront witnesses against him in court, and the Padilla trial rested on an unprecedentedly broad conception of conspiracy.15 An important but under-appreciated cost of using trials in all cases is that these prosecutions will invariably bend the law in ways unfavorable to civil liberties and due process, and these changes, in turn, will invariably spill over into non-terrorist prosecutions and thus skew the larger criminal justice process.16¶ A final problem with using any trial system, civilian or military, as the sole lawful basis for terrorist detention is that the trials can result in short sentences (as the first military commission trial did) or even acquittal of a dangerous terrorist.17 In criminal trials, guilty defendants often go free because of legal technicalities, government inability to introduce probative evidence, and other factors beyond the defendant's innocence. These factors are all exacerbated in terrorist trials by the difficulties of getting information from the place of capture, by classified information restrictions, and by stale or tainted evidence. One way to get around this problem is to assert the authority, as the Bush administration did, to use non-criminal detention for persons acquitted or given sentences too short to neutralize the danger they pose. But such an authority would undermine the whole purpose of trials and would render them a sham. As a result, putting a suspect on trial can make it hard to detain terrorists the government deems dangerous. For example, the government would have had little trouble defending the indefinite detention of Salim Hamdan, Osama Bin Laden's driver, under a military detention rationale. Having put him on trial before a military commission, however, it was stuck with the light sentence that Hamdan is completing at home in Yemen.¶ As a result of these considerations, insistence on the exclusive use of criminal trials and the elimination of non-criminal detention would significantly raise the chances of releasing dangerous terrorists who would return to kill Americans or others. Since noncriminal military detention is clearly a legally available option—at least if it is expressly authorized by Congress and contains adequate procedural guarantees—this risk should be unacceptable. In past military conflicts, the release of an enemy soldier posed risks. But they were not dramatic risks, for there was only so much damage a lone actor or small group of individuals could do.18 Today, however, that lone actor can cause far more destruction and mayhem because technological advances are creating ever-smaller and ever-deadlier weapons. It would be astounding if the American system, before the advent of modern terrorism, struck the balance between security and liberty in a manner that precisely reflected the new threats posed by asymmetric warfare. We face threats from individuals today that are of a different magnitude than threats by individuals in the past; having government authorities that reflect that change makes sense.