I affirm the resolved: The United States ought to extend to noncitizens accused of terrorism the same due process protections it grants to citizens. To clarify, I offer the following definitions.

Ought is used to indicate a desirable or expected state. (New Oxford American Dictionary)

To accuse is to claim that (someone) has done something. (NOA Dictionary)

Terrorism is the use of violence and intimidation in the pursuit of political aims. (NOA Dictionary)

Due process is an established course for judicial proceedings or other governmental activities designed to safeguard the legal rights of the individual. (American Heritage Dictionary of the English Language.

My value is justice, defined as giving each his due. Justice is the value for this round because we are referring to the procedures of the US justice system, a system created solely to give each his due, and because we are trying to give citizens and noncitizens their due as well.

My criterion is protecting individual rights. Protecting individual rights is just because it gives one what he or she is due, as rights protect what a person deserves. If we look to Locke, throughout his Second Treatise of Government he specifies how we need rights as governmental checks and to preserve our quality of life by ensuring justice.

Contention 1 The Supreme Court has reinforced the Equal Protections clause, and the UDHR also reaffirms the statute that all persons are entitled to due process protections. Cole furthers:

Cole 03 (David, Professor of Law Georgetown University Law Center cole@law.georgetown.edu: Are Foreign Nationals Entitled to the Same Constitutional Rights As Citizens?; GEORGETOWN LAW The Scholarly Commons, March 2010; <http://scholarship.law.georgetown.edu/facpub/297>; September 2, 2012)

**For more than a century, the Court has recognized that the Equal Protection Clause is "universal in [its] application, to all persons within the territorial jurisdiction, without regard to differences of ... nationality.** **The Court has repeatedly stated that "the Due**

**Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.When noncitizens, no matter what their status, are tried for crimes, they are entitled to all of the rights that attach to the criminal process, without any distinction based on their nationality.**

There are strong normative reasons for the uniform extension of these fundamental rights. As James Madison himself argued,

those subject to the obligations of our legal system ought to be entitled to its protections: [I]t does not follow, because aliens are not parties to the Constitution, as citizens are parties to it, that whilst they actually conform to it, they have no right to its protection. Aliens are

not more parties to the laws, than they are parties to the Constitution; yet it will not be disputed, that as they owe, on one

hand, a temporary obedience, they are entitled, in return, to their protection and advantage While Madison's view was not without its CrItIcs, his view prevailed in the long run.I8 On this view, the Constitution pre-sumptively extends not just to citizens, but to all who are subject to American legal obligations, and certainly to all persons within the United States. Madison's view is buttressed by the fact that when adopted, the rights enumerated in the Bill of Rights were viewed not as a set of optional contractual provisions enforceable because they were agreed upon by a group of states and extending only to the contracting parties, but as inalienable natural rights that found their provenance in GOd.19

While natural law theories hold less influence today, the human rights movement of the last fifty years reflects a remarkably parallel secular understanding, namely that there are certain basic human rights to which all persons are entitled, simply by virtue of their humanity. Human rights treaties, including those that the United States has signed and ratified, uniformly provide that the rights of due process, political freedoms, and equal protection are owed to all persons, regardless of nationality**. The** **Universal Declaration of Human Rights, for example, aptly described** by Professor Richard Lillich as the "Magna Carta of contemporary international human rights law**," is expressly premised** **on "the inherent dignity and ... the equal and inalienable rights** **of all members of the human family.** Every international law scholar to consider the question has concluded that the Universal

Declaration extends its rights to non-nationals and nationals alike.21 **The Universal Declaration explicitly guarantees the** **rights of due process, political expression and association, and** **equal protection.**

Sedition Act, so with the Alien Act, those espousing the more inclusive, rights-protective views ultimately prevailed, and the Alien Act sunsetted two years after its enactment.

According to the UN’s Universal Declaration of Human Rights (1948)

**Everyone is entitled to all the rights and freedoms set forth in this Declaration, with- out distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.**

AND

**All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.**

The United States signed and collaborated on this document, and so the US supports the ideas written. It therefore agrees with the ideas of universal human rights and everyone appearing in equal protection in front of the law. Not giving noncitizens the same due process protections would go against the idea of equal protection and universal human rights, ergo not keeping with the set ideal of justice and each his due.

Subpoint B. Not following international standards hinders international cooperation in decreasing terrorism.

Mora states:

Alberto J. **Mora**, Former U.S. Navy General Counsel, June 17th, **2008**, “Statement of Alberto J. Mora.” Senate Committee on Armed Services Hearing on the Treatment of Detainees in U.S. Custody

<http://armed-services.senate.gov/statemnt/2008/June/Mora%2006-17-08.pdf>

These adverse foreign policy consequences would inevitably damage our national security strategy and our operational effectiveness in the War on Terror. **Our ability to build and sustain the broad alliance required to fight the war was compromised**. **International cooperation, including in the military, intelligence, and law enforcements arenas, diminished as foreign officials became concerned that assisting the U.S. in detainee matters could constitute aiding and abetting criminal conduct in their own countries**. As the difficulties of Prime Ministers Tony Blair and Jose Maria Aznar demonstrated, **seemingly every European politician who sought to ally his country with the U.S. effort on the War on Terror incurred a political penalty.**

Terrorism is an international affair plaguing all different countries so in order to effectively deal with this issue of terrorism, international cooperation is needed. However, countries often ignore and refuse to aid the US in such efforts because of the evident inhumane treatment of detainees in the detention camps could influence the wellbeing of civilians in other countries.

Such actions considerably increase the potential threat of terrorism not only in the US but in other countries as well.

My second contention is that due process protections check rights abuse by the government.

Stewart and Sunstein 1 states:

**Public Programs and Private Rights**

Richard B. Stewart and Cass R. Sunstein

*Harvard Law Review* , Vol. 95, No. 6 (Apr., 1982), pp. 1193-1322

**Between I885 and I940, the federal courts created rights of defense to enable individuals and regulated firms to prevent agencies from imposing controls not authorized by statute.**202 **Courts repeatedly held that due process requires a hearing and judicial review** when administrators impose taxes or assess- ments,203fix prices,204or regulate business activity in other ways.205 **The right of defense was originally founded on a stable system of common law liberty** and property rights. In the original conception of the Republic, **the independent judiciary was to protect these rights against political factions bent on the exploitation of government power for parochial ends**.206 **Administrative intrusions on common law rights were regarded as presumptively illegitimate and required explicit legislative authorization.**

So rights like due process were originally formed as a defense system.

**Stewart and Sunstein 2 furthers:**

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**By creating private rights of defense, the traditional model of administrative law curbs official bias or arbitrariness in the enforcement process and thus promotes impartial treatment.** At the same time, the system limits the power of government, maintains a well-ordered sphere of private liberty, and pre- serves the system of market exchange. **These are the classic functions of the rule of law.**

The governmental power monopoly can lead to exploitation if unchecked and because it has the ability to create the laws that govern our society and is the backbone, it is very powerful, much more powerful than the single individual. Rights are the individual’s safeguard and therefore must be valued, or they have no purpose. Since the government has such disproportional power, checks are needed to protect the individual and Due process protections are one of these checks. Without due process protections, the individuals rights could be infringed, namely of fair trial and due process and our justice system becomes corrupt and inefficient. By not providing due process, we do not check governmental power, we do not preserve our justice system, and we do not protect individual rights.

Contention 3. Potential state of US after denying due process rights

The denial of due process rights, no matter how popular the demand may be, follows the pattern of acts that take away due process protections, grant immunity to officials, and lead into a state of lawlessness all for the fight to reduce terrorism.

The story of **Uruguay** is particularly instructive. **Before 1974,** it **was one of the few longstanding, stable constitutional democracies of Latin America. In 1967 it adopted a new and stronger constitution. That document incorporated impeccable rule of law and human rights principles. But then Uruguay suffered a serious economic downturn which threatened its welfare laws. At the same time, it had to grapple with a challenge from a** small, determined **band of terrorists known as the Tupamaros.** The Tupamaros resorted to indiscriminate acts of violence and cruelty that shook Uruguayan society**. The citizens, and especially the military, began to demand solutions.** Coups had occurred in Brazil in 1964, in the Dominican Republic in 1965, and in Chile in 1973. In Uruguay, in 1974, the military, police, and their supporters struck.

**After the coup,** one by one, **the constitutional guarantees in Uruguay were dismantled. More than 5,000 civilians in a country of fewer than three million inhabitants were incarcerated for very long prison terms for having committed “political offenses.”** Other detainees were kept incommunicado.For a time **habeas corpus was withdrawn. Immunity was granted to officials for an increasingly broad range of illegal acts. The country that had been known as the “Switzerland of Latin America” entered a period of escalating lawlessness. At first, the strong governmental tactics had much support in the general population because of fear of the Tupamaros.** However, **unaccountable power** eventually **bred oppression.** True, the Tupamaros were defeated. Butit took twelve years and an enormous struggle to return Uruguay to constitutionalism. Even then, amnesties were imposed for the military, police, and other officials. A deep scar was left on the body politic.

Kirby, M. D. (Michael Donald), 1939- Indiana Journal of Global Legal Studies, Volume 12, Issue 1, Winter

2005, pp. 313-344 (Article) Published by Indiana University Press DOI: 10.1353/gls.2005.0004

Denying due process protections would lead to the collapse of the American society.

This card gives a real life example of how if due process is not provided, the government becomes weak, insufficient, and corrupt. This links directly back to idea of needing governmental checks and the need to protect human rights through due process. Without a government, there is no mechanism with which to serve and preserve justice or protect individual rights.

My fourth contention is that not providing due process increases terrorism in retaliation against the US.

Alexander states:

Matthew **Alexander**, Former Member of the US Airforce, Leader of the Interrogation Team that Led to the Capture of Abu Musab al-Zarqawi, leader of al-Qaeda in Iraq, November 30th **2008**, “I’m Still Tortured by What I Saw in Iraq.” Washington Post

<http://www.washingtonpost.com/wp-dyn/content/article/2008/11/28/AR2008112802242.html>

I learned in Iraq that **the No. 1 reason foreign fighters flocked there to fight were the abuses carried out at Abu Ghraib and Guantanamo. Our policy of torture was directly and swiftly recruiting fighters for al-Qaeda in Iraq**. The large majority of suicide bombings in Iraq are still carried out by these foreigners. They are also involved in most of the attacks on U.S. and coalition forces in Iraq. It's no exaggeration to say that **at least half of our losses and casualties in that country have come at the hands of foreigners who joined the fray because of our program of detainee abuse.** **The number of U.S. soldiers who have died because of our torture policy** will never be definitively known, but it is fair to say that it **is close to the number of lives lost on Sept. 11, 2001.** How anyone can say that torture keeps Americans safe is beyond me -- unless you don't count American soldiers as Americans.

The reason why increases in the number of terrorists and terrorist attacks are able to occur is in the form of retaliation as people are angered by the dehumanizing actions that take place against “their people” in government detention camps which undoubtedly backfires because it leads to the increase in terrorist recruitment, thus increasing the power of terrorism globally. Terrorists now have a more compelling reason to fight and recruit more people and violate human rights. This does not do the citizens or noncitizens justice or give either of them protection of rights.