## 1nc

### 1nc facts

#### Facts are meaningless. Their internal link chains are factoids, which are worse. 1ac was detrimental to the cause of their position. This is not a critique of the law.

Schlag ’13 Pierre Schlag, “Facts (The),” his blog, 1/28/2013, http://brazenandtenured.com/2013/01/28/facts-the/

But let me explain about the facts. First, notice, that the most factish of facts (apologies to Latour) are actually factoids—trivial data bits shorn of any actual narrative. CNN had it down cold: “America has had five presidents who ate fish for breakfast.” What, I ask you, could you possibly do with that qua fact? Still, Americans like facts. It was Joe Friday on Dragnet who first said, “all we want are the facts, ma’am.” Really? That’s all? I don’t think so. He was on a mission. He wanted facts on a mission. And we, the viewers, did too. So I have to say, as a preliminary matter, things already don’t look too good for the facts. Indeed, the possibility that in their most prototypical factishisness, facts are nearly useless while in their most desirable state they are on a mission—well, that’s not an auspicious start. Things get worse. In law and social science (that’s my domain limit here—I feel really cramped) facts generally function as poseurs. The facts, are nearly always posing as the truth about “what-is-actually-going-on.” Facts are frequently presented as “the-real-story” or “the bottom line.” One is no doubt supposed to conclude from this that “facts are facts”—that they are the veritable bedrock of truth. But notice that this doesn’t make any sense. Notice that the “bottom line” is an accounting metaphor. Consider that, “the real story” is an oxymoron deliberately composed of both truth and fiction. Note that “what-is-actually-going-on” is a problematic state hanging precariously on the ungrounded and notoriously unreliable reality/appearance pair. All of this is to say, that the appeal of “getting down to the facts,” (or some such thing) often rests on situating the facts in some initially alluring rhetorical space (e.g. “the real story” “the bottom line”) that turns out, upon further inspection, to be constructed of images, metaphors or fictions of questionable philosophical countenance. (See, Nietzsche, On Lies and Truth in a Non-Moral Sense) Now, it’s not that these metaphors, images or fictions turn facts into non-facts. But still, I ask you: what could be more humbling to a fact then to learn that its appeal rests upon a fiction? Not only do facts frequently function as poseurs, but, when they are at their most factish, they’re often not all that interesting. Factish facts don’t really tell you much of anything you want to know. Imagine a party. Here are some exemplary factish facts: There were 19 people at the party. 9 were women. 10 were men. While the party was happening, gravity exercised a constant force of 32 feet per second/per second. Everyone standing stayed connected to the ground. Not the greatest narrative is it? And notice here that if you stick strictly to the facts (if you admit only of truly factish facts) adding more of these little items will not markedly improve your story line. (For you editors of university press books and law review articles, please pay special attention here.) The only time facts are really interesting (remember law and social science is the domain limit) is when they’re something more than just the facts. Go back to the party. Here’s another fact: Jill left the party with Tom. This fact is more interesting. Well, mildly so. With this sort of fact, you can start imagining possible implications (amorous, murderous, whathaveyou). But note that now we’re no longer talking about “just the facts.” We’re talking about facts with implications, facts with attitude. Why then are facts ever interesting? Well, ironically it’s because they’re not functioning as “just facts,” but something more.

#### Information is uniquely dissuasive—presumption is neg

Baudrillard, ’92 (Jean, *Pataphysics of Year 2000*, [online])

Outside of this gravitational pull which keeps bodies in orbit, all the atoms of meaning lose themselves or self-absolve in space. Every single atom follows its own trajectory towards infinity and dissolves in space. This is precisely what we are living in our present societies occupied with the **acceleration of all** bodies, all **messages, all processes** in all possible senses and wherein, via modern media, each event, each narrative, each image gets endowed with the simulation of an infinite trajectory. Every political, historical, cultural fact is invested with a kinetic energy which spreads over its own space and thrusts these facts into a hyperspace where they **lose all meaning** by way of an inability to attain their meaning. It is useless to turn to science-fiction: from this point on, from the here and now, through our computer science, our circuits and our channels, this particle accelerator has definitively disrupted and broken the referential orbit of things. With respect to history, the narrative has become impossible since by definition it is the **potential re-narrativization of a sequence of meaning**. Through the impulse of total diffusion and circulation **each event is liberated for itself only** — each event becomes atomized and nuclear as it follows its trajectory into the void. In order to diffuse itself *ad infinitum,* it has to be fragmented like a particle. This is the way it attains a speed of no-return, distancing it from history once and for all. Every cultural, eventual group needs to be fragmented, disarticulated to allow for its entry into the circuits, each language must be absolved into a binary mechanism or device to allow for its circulation to take place — not in our memory, but in the electronic and luminous memory of the computers. There is no human language or speech (*langage*) that could compete with the speed of light. There is no event that could withstand its own diffusion across the planet. No meaning stands a chance once offered the means of its own acceleration. There is no history that will resist the centrifugal pull of facts or its short-circuiting in real time (in the same order of ideas: no sexuality will resist its own liberation, not a single culture will foreclose its own advancement, no truth will defy its own verification, etc.). Even theory is no longer in the state of "reflecting" on anything anymore. All it can do is to snatch concepts from their critical zone of reference and transpose them to the point of no return, in the process of which theory itself too, passes into the hyperspace of simulation as it loses all "objective" validity, while it makes significant gains by acquiring real affinity with the current system. The second hypothesis, with respect to the vanishing of history, is the opposite of the first, i.e., it pertains not to the acceleration but to the slowing down of processes. This too is derived directly from physics. Matter slows the passage of time. More precisely, time seems to pass very slowly upon the surface of a very dense body of matter. The phenomenon increases in proportion to growth in density. The effect of this slowing down (*ralentissement*) will raise the wavelength of light emitted by this body in a way that will allow the observer to record this phenomenon. Beyond a certain limit, time stops, the length of the wave becomes infinite. The wave no longer exists. Light extinguishes itself. The analogy is apparent in the way history slows down as it brushes up against the astral body of the "silent majorities". Our societies are governed by this process of the mass, and not only in the sociological or demographical sense of the word, but also in the sense of a "critical mass", of going beyond a certain point of no-return. That is where the crucially significant event of these societies is to be found: the advent of their revolutionary process along the lines of their mobility, (they are all revolutionary with respect to the centuries gone by), of their equivalent force of inertia, of an immense indifference, and of the silent power of this indifference. This inert matter of the social is not due to a lack of exchanges, of information or of communication; on the contrary, it is the result of the multiplication and saturation of exchanges. It is borne of the hyperdensity of cities, of merchandise, messages and circuits. It is the cold star of the social, a mass at the peripheries of which history cools out. Successive events attain their annihilation in indifference. **Neutralized and bullet-sprayed by information**, the masses neutralise history retrospect and act as a screen of absorption. They themselves have no history, no meaning, no conscience, no desire. They are potential residues of all history, of all meaning, of all desire. By **inserting themselves into modernity**, all these wonderful things managed to invoke **a mysterious counterpart**, the misappreciation of which has unleashed all current political and social strategies. This time, it's the opposite: history, meaning, progress are no longer able to find their speed or tempo of liberation. They can no longer pull themselves out of this much too dense body which slows down their trajectory, slows down their time to the point from whereon perception and imagination of the future escapes us. All social, historical and temporal transcendence is absorbed via this mass's silent immanence. Already, political events no longer conduct sufficient autonomous energy to rouse us and can only run their course as a silent movie in front of which we all sit collectively irresponsible. That is where history reaches its end, not because of the lack of actors or participants, not due to a lack of violence (with respect to violence, there is always an increasing amount), not due to a lack of events (as for events, there will always be more of them thanks to the role of the media and information!) — but because of a slowing down or deceleration, because of indifference and stupefaction. History can no longer go beyond itself, it can no longer envisage its own finality or dream of its own end, it shrouds or buries itself in its immediate effect, it self-exhausts in special effects, it implodes in current events. Essentially, one can no longer speak of the end of history since it has no time to rejoin its own end. **As its effects accelerate, its meaning inexorably decelerates**. It will end up stopping and extinguishing itself like light and time at the peripheries of an infinitely dense mass... Humanity too, had its big-bang: a certain critical density, a certain concentration of people and exchanges that compel this explosion we call *history* and which is none other than the dispersal of dense and hieratic cores of earlier civilizations. Today, we are living an effect of reversal: we have overstepped the threshold of critical mass with respect to populations, events, information, control of the inverse process of inertia of history and politics. At the cosmic level of things, we don't know anymore whether we have reached this speed of liberation wherein we would be partaking of a permanent or final expansion (this, no doubt, will remain forever uncertain). At the human level, where prospects are more limited, it is possible that the energy itself employed for the liberation of the species (acceleration of birthrates, of techniques and exchanges in the course of the centuries) have contributed to an excess of mass and resistance that bear on the initial energy as it drags us along a ruthless movement of contraction and inertia. Whether the universe infinitely expands or retracts to an infinitely dense and infinitely small core will hinge upon its critical mass (with respect to which speculation itself is infinite in view of the discovery of newer particles). Following the analogy, whether our human history will be evolutionary or involuted will presumably depend upon the critical mass of humanity. Are we to see ourselves, like the galaxies, on a definitive orbit that distances us from each other under the impact of a tremendous speed, or is this dispersal to infinity itself destined to reach an end, and the human molecules bound to draw closer to each other by way of an inverse effect of gravitation? The question is whether a human mass that grows day by day is able to control a pulsation of this genre? Third hypothesis, third analogy. But we are still dealing with a point of disappearance, a point of evanescence, a *vanishing-point,* this time however along the lines of music. This is what I call the stereophonic effect. We are all obsessed with high fidelity, with the quality of musical "transmission" (*rendu*). On the console of our channels, equipped with our tuners, our amplifiers and our baffles, we mix, regulate and multiply soundtracks in search of an infallible or unerring music. Is this, though, still music? Where is the threshold of high fidelity beyond the point of which music as such would disappear? Disappearance would not be due to the lack of music, it would disappear for having stepped beyond this boundary, it would disappear into the perfection of its materiality, into its own special effect. Beyond this point, neither judgement nor aesthetic pleasure could be found anymore. Ecstasy of musicality procures its own end. The disappearance of history is of the same order: there too, we have gone beyond this limit or boundary where, subjected to *factual* and *information-al* sophistication, history as such ceases to exist. Large doses of immediate diffusion, of special effects, of secondary effects, of fading — and this famous Larsen effect produced in acoustics by an excessive proximity between source and receiver, in history via an excessive proximity, and therefore the disastrous interference of an event with its diffusion — create a short-circuit between cause and effect, similarly to what takes place between the object and the experimenting subject in microphysics (and in the human sciences!). All things entailing a certain radical uncertainty of the event, like excessive high fidelity, lead to a radical uncertainty with respect to music. Elias Canetti says it well: "as of a certain point", nothing is true anymore. This is also why the soft music of history escapes us, it disappears under the microscope or into the stereophony of information.

### 1nc law

#### Their reliance on legal modernity to regulate the existence of detention guarantees that their must be camps outside the law in which the executive can act with impunity—we need a new politics

Agamben 98. Giorgio Agamben, professor of philosophy at the University of Verona, *Homo Sacer: Sovereign Power and Bare Life,* pg. 174

7-7- In this light, the birth of the camp in our time appears as an event that decisively signals the political space of modernity itself. It is produced at the point at which the political system of the modern nation-state, which was founded on the functional nexus between a determinate localization (land) and a determinate order (the State) and mediated by automatic rules for the inscription of life (birth or the nation), enters into a lasting crisis, and the State decides to assume directly the care of the nation's biological life as one of its proper tasks. If the structure of the nation-state is, in other words, defined by the three elements land, order, birth, the rupture of the old nomos is produced not in the two aspects that constituted it according to Schmitt (localization, Ortung, and or­ der, Ordnung), but rather at the point marking the inscription of bare life (the birth that thus becomes nation) within the two of them. Something can no longer function within the traditional mechanisms that regulated this inscription, and the camp is the new, hidden regulator of the inscription of life in the order-or, rather, the sign of the system's inability to function without being transformed into a lethal machine. It is significant that the camps appear together with new laws on citizenship and the denational­ ization of citizens-not only the Nuremberg laws on citizenship in the Reich but also the laws on denationalization promulgated by almost all European states, including France, between 1915 and 1933. The state of exception, which was essentially a temporary suspension of the juridico-political order, now becomes a new and stable spatial arrangement inhabited by the bare life that more and more can no longer be inscribed in that order. The growing dissociation of birth (bare life) and the nation-state is the new fact of politics in our day, and what we call camp is this disjunction. To an order without localization (the state of exception, in which law is suspended) there now corresponds a localization without order (the camp as permanent space of exception). The political system no longer orders forms of life and juridical rules in a determinate space, but instead contains at its very center a dislocating localiza­ tion that exceeds it and into which every form of life and every rule can be virtually taken. The camp as dislocating localization is the hidden matrix of the politics in which we are still living, and it is this structure of the camp that we must learn to recognize in all its metamorphoses into the zones d'attentes of our airports and certain outskirts of our cities. The camp is the fourth, inseparable element that has now added itself to-and so broken-the old trinity composed of the state, the nation (birth) , and land.

From this perspective, the camps have, in a certain sense, reap­ peared in an even more extreme form in the territories of the former Yugoslavia. What is happening there is by no means, as interested observers have been quick to declare, a redefinition of the old political system according to new ethnic and territorial arrangements, which is to say, a simple repetition ofprocesses that led to the constitution of the European nation-states. At issue in the former Yugoslavia is, rather, an incurable rupture of the old nomos and a dislocation of populations and human lives along entirely new lines of flight. Hence the decisive importance of ethnic rape camps. If the Nazis never thought of effecting the Final Solution by making Jewish women pregnant, it is because the principle ofbirth that assured the inscription oflife in the order of the nation-state was still-if in a profoundly transformed sense­ in operation. This principle has now entered into a process of decay and dislocation. It is becoming increasingly impossible for it to function, and we must expect not only new camps but also always new and more lunatic regulative definitions of the inscrip­ tion of life in the city. The camp, which is now securely lodged within the city's interior, is the new biopolitical nomos of the planet.

#### Their aff scape goats the decision on indefinite detention to legal bureaucrats who will make racist decisions about who will be indefinitely detained RATHER than applying the plan’s case law equally

Tagma 09. Halit Mustafa Tagma, Professor of Political Science and International Relations, Sabanci University, Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pg. 422

Besides the manual Standard Operating Procedures that dictates the minute-to-minute details on disciplining prisoners and Human Ter- rain Systems to classify and discipline populations, there is also a mushrooming psychiatric discipline that has the prisoners as its ob- ject. Allison Howell argues that the psychiatric discourse, as a regime of truth, has pathologized the Guantánamo prisoners such that it "play[ed] a part in the conditions of possibility for indefinite deten- tion**.**"89 Howell shows how the scientific discourse on the mental health of the prisoners has constructed them as "crazy, fanatical mad- men" who are dangerous to themselves and society.90 She argues that this regime of truth has legitimated the indefinite detention of the prisoners. This supports my central argument that the "regime of truth" of biopower supplements sovereign power. This means that tactics of power create the conditions of possibility for the justifica- tion of exceptional sovereign practices. In other words, techniques of power that attempt to individualize, divide, and discipline bodies feed back into and justify the conditions of possibility for the exceptional logic in the articulation of emergency powers - a logic of supplemen- tarity par excellence. All this is not to say that there is a simple chronol- ogy to this logic, and that such affairs occur in abstraction, external to chance, contingency, historicity, interpretation, and the regime of truth of a given society. Instead, the techniques of power go hand in hand with the regime of truth in a given space and time. Exclusion- ary practices and the production of bare life do not operate, as Agam- ben would have us believe, in a uniform and universal manner that gets replicated across time and space, be it in the Greek city-state Nazi Germany. Agamben declares that thanks to sovereign power Ve are all Homo Sacer" Historically and theoretically, however, the articu- lation of the Ve" is at the core of the problem. The prisoners of the war on terror are also subject to standards of classification, categorization, and profiling. In the case of John Phillip Walker Lindh, the son of a white suburban US family, who was captured in the opening of the war in Afghanistan, "justice" was meted out swiftly, and he was given a twenty-year sentence. On the other hand, Jose Padilla, "an American citizen of color," and in the case of thousands of other subjects put on indefinite detention, normal law is put on hold.91 What accounts for this difference are the marks of difference on a subject's body (race, religion, national back- ground, and ideology) that all come in to play at the ground level when petty bureaucrats get to decide who is to be treated according to what standard of operation. The workings of racism can be identi- fied in the speeches of petty bureaucrats at the local level, as in this statement from one of the Tipton Three: I recall that one of them said "you killed my family in the towers and now it's time to get you back." They kept calling us mother fuckers and I think over the three or four hours that I was sitting there, I must have been punched, kicked, slapped or struck with a rifle butt at least 30 or 40 times. It came to a point that I was simply too numb from the cold and from exhaustion to respond to the pain.92 Although the Three were British citizens and had nothing to do with the 9/11 terrorist attacks, they were quickly associated with ter- rorism because of their racial background and apprehension in Af- ghanistan. Despite the fact that they had nothing to do with terrorism, as their release from Guantánamo Bay suggests, their treatment stands as an indication not of senseless sovereign vengeance but of a vengeance informed by a certain racist bias. Their capture, torture, and treatment was all made possible by a prior initial racial profiling that resulted in innocent men being held in captivity. Sovereign vio- lence does not operate in the absence of a regime of truth that iden- tifies those whose bodies could be subjected to violence. As developed in particular, there was an unmistakable racist disposition toward the "different" bodies of the prisoners. As Reid-Henry points out, the flesh of the Oriental, both as an exotic and an inferior sub- ject, probably had something to do with the stripping and beating of Middle Eastern prisoners.93 It may be argued that the decision not to apply the Geneva Convention and other standards of legal treatment to the prisoners captured in Afghanistan is representative of an exceptional decision. However, in line with what I have been arguing, such a resolution is not a simple act of deciding on the part of the leading politicomili- tary cadres of a state. This is not to deny the importance of subjects in key positions; however, such decisions do not take place in a space external to interpretation, culture, and history. Furthermore, much of the sovereign decisions, such as "who is to be detained indefi- nitely," are made at the local level based on interpretation of petty bureaucrats. Sovereign decisions are always already informed by historical and cultural understandings as to who counts as a member of the "good species**."** The "good species," "the inside," and the body politic have been constructed by colonial discourse. As Roxanne Doty has pointed out, colonial discourse has had a vital role in the construction of Western nations. She further points out that race, religion, and other marks of difference have played an important role in national classi- fication.94 The treatment of faraway people as inferior and exotic has played an important role in nation building in its classic sense. There- fore, who counts as a citizen, a "legitimate" member of a "legitimate" nation, is the product and effect of centuries of interaction of the West with its others. Understood in this sense, sovereign decisions (whether made at the top or bottom level) are informed and shaped by a cultural and colonial history. This is neglected in Agamben's grand analysis of Western politics. Therefore, sovereign power needs the classification, hierarchization, and othering provided by a regime of truth in order to conduct its violent power. Only certain types of peo- ple could be rendered as bare life and thrown into a zone of indis- tinction. Understood this way, it is easier to comprehend the "smooth" production of homines sacri out of Middle Eastern subjects.

#### The legal system is broken as the sovereign’s ability to exploit fundamental flaws in the legal system and continue the global biopolitical war—the ballot should side with the global countermovement against such violence

Gulli 13. Bruno Gulli, professor of history, philosophy, and political science at Kingsborough College in New York, “For the critique of sovereignty and violence,” <http://academia.edu/2527260/For_the_Critique_of_Sovereignty_and_Violence>, pg. 1

We live in an unprecedented time of crisis. The violence that characterized the twentieth century, and virtually all known human history before that, seems to have entered the twenty-first century with exceptional force and singularity. True, this century opened with the terrible events of September 11. However, September 11 is not the beginning of history. Nor are the histories of more forgotten places and people, the events that shape those histories, less terrible and violent – though they may often be less spectacular. The singularity of this violence, this paradigm of terror, does not even simply lie in its globality, for that is something that our century shares with the whole history of capitalism and empire, of which it is a part. Rather, it must be seen in the fact that terror as a global phenomenon has now become self-conscious. Today, the struggle is for global dominance in a singularly new way, and war –regardless of where it happens—is also always global. Moreover, in its self-awareness, terror has become, more than it has ever been, an instrument of racism. Indeed, what is new in the singularity of this violent struggle, this racist and terrifying war, is that in the usual attempt to neutralize the enemy, there is a cleansing of immense proportion going on. To use a word which has become popular since Michel Foucault, it is a biopolitical cleansing. This is not the traditional ethnic cleansing, where one ethnic group is targeted by a state power – though that is also part of the general paradigm of racism and violence. It is rather a global cleansing, where the sovereign elites, the global sovereigns in the political and financial arenas (capital and the political institutions), in all kinds of ways target those who do not belong with them on account of their race, class, gender, and so on, but above all, on account of their way of life and way of thinking. These are the multitudes of people who, for one reason or the other, are liable for scrutiny and surveillance, extortion (typically, in the form of over- taxation and fines) and arrest, brutality, torture, and violent death. The sovereigns target anyone who, as Giorgio Agamben (1998) shows with the figure of homo sacer, can be killed without being sacrificed – anyone who can be reduced to the paradoxical and ultimately impossible condition of bare life, whose only horizon is death itself. In this sense, the biopolitical cleansing is also immediately a thanatopolitical instrument.

The biopolitical struggle for dominance is a fight to the death. Those who wage the struggle to begin with, those who want to dominate, will not rest until they have prevailed. Their fanatical and self-serving drive is also very much the source of the crisis investing all others. The point of this essay is to show that the present crisis, which is systemic and permanent and thus something more than a mere crisis, cannot be solved unless the struggle for dominance is eliminated. The elimination of such struggle implies the demise of the global sovereigns, the global elites – and this will not happen without a global revolution, a “restructuring of the world” (Fanon 1967: 82). This must be a revolution against the paradigm of violence and terror typical of the global sovereigns. It is not a movement that uses violence and terror, but rather one that counters the primordial terror and violence of the sovereign elites by living up to the vision of a new world already worked out and cherished by multitudes of people. This is the nature of counter-violence: not to use violence in one’s own turn, but to deactivate and destroy its mechanism. At the beginning of the modern era, Niccolò Machiavelli saw the main distinction is society in terms of dominance, the will to dominate, or the lack thereof. Freedom, Machiavelli says, is obviously on the side of those who reject the paradigm of domination:

[A]nd doubtless, if we consider the objects of the nobles and of the people, we must see that the first have a great desire to dominate, whilst the latter have only the wish not to be dominated, and consequently a greater desire to live in the enjoyment of liberty (Discourses, I, V).

Who can resist applying this amazing insight to the many situations of resistance and revolt that have been happening in the world for the last two years? From Tahrir Square to Bahrain, from Syntagma Square and Plaza Mayor to the streets of New York and Oakland, ‘the people’ speak with one voice against ‘the nobles;’ the 99% all face the same enemy: the same 1%; courage and freedom face the same police and military machine of cowardice and deceit, brutality and repression. Those who do not want to be dominated, and do not need to be governed, are ontologically on the terrain of freedom, always-already turned toward a poetic desire for the common good, the ethics of a just world. The point here is not to distinguish between good and evil, but rather to understand the twofold nature of power – as domination or as care.

The biopolitical (and thanatopolitical) struggle for dominance is unilateral, for there is only one side that wants to dominate. The other side –ontologically, if not circumstantially, free and certainly wiser—does not want to dominate; rather, it wants not to be dominated. This means that it rejects domination as such. The rejection of domination also implies the rejection of violence, and I have already spoken above of the meaning of counter-violence in this sense. To put it another way, with Melville’s (2012) Bartleby, this other side “would prefer not to” be dominated, and it “would prefer not to” be forced into the paradigm of violence. Yet, for this preference, this desire, to pass from potentiality into actuality, action must be taken – an action which is a return and a going under, an uprising and a hurricane. Revolution is to turn oneself away from the terror and violence of the sovereign elites toward the horizon of freedom and care, which is the pre- existing ontological ground of the difference mentioned by Machiavelli between the nobles and the people, the 1% (to use a terminology different from Machiavelli’s) and the 99%. What is important is that the sovereign elite and its war machine, its police apparatuses, its false sense of the law, be done with. It is important that the sovereigns be shown, as Agamben says, in “their original proximity to the criminal” (2000: 107) and that they be dealt with accordingly. For this to happen, a true sense of the law must be recuperated, one whereby the law is also immediately ethics. The sovereigns will be brought to justice. The process is long, but it is in many ways already underway. The recent news that a human rights lawyer will lead a UN investigation into the question of drone strikes and other forms of targeted killing (The New York Times, January 24, 2013) is an indication of the fact that the movement of those who do not want to be dominated is not without effect. An initiative such as this is perhaps necessarily timid at the outset and it may be sidetracked in many ways by powerful interests in its course. Yet, even positing, at that institutional level, the possibility that drone strikes be a form of unlawful killing and war crime is a clear indication of what common reason (one is tempted to say, the General Intellect) already understands and knows. The hope of those who “would prefer not to” be involved in a violent practice such as this, is that those responsible for it be held accountable and that the horizon of terror be canceled and overcome. Indeed, the earth needs care. And when instead of caring for it, resources are dangerously wasted and abused, it is imperative that those who know and understand revolt –and what they must revolt against is the squandering and irresponsible elites, the sovereign discourse, whose authority, beyond all nice rhetoric, ultimately rests on the threat of military violence and police brutality

### 1nc solvency

#### The plan wrecks due process and compromises judicial independence by cementing executive control of adjudication

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Like any competent military commander, Sulmasy structures his proposal’s features to meet his objectives. First and foremost, his national security court system would adjudicate all habeas proceedings – rather than the federal district courts, as Boumediene envisioned – thus preventing the exodus Sulmasy fears.56 Otherwise, the most striking aspect of his proposed court system is its structural similarity to traditional military commissions; as Sulmasy envisions, the former represents “an outgrowth” of the latter, not a paradigm shift.57 Suspected terrorists would be detained in military brigs and trials conducted on military bases, as “has been the practice [] for generations.”58 Military judge advocates would supply both prosecution and defense counsel in habeas proceedings, although civilian prosecutors would supplement the former during full prosecution.59 Procedurally, the national security court system would “adopt virtually all [] aspects of the Military Commissions Act of 2006.”60 The merit of this structure, according to Sulmasy, consists in that it “includes the military’s input and can be seen as overt recognition that this is a war requiring military expertise.”61 Less euphemistically, the military would retain far greater control over logistics than in the alternative scenario of federal district court, mitigating the “pervasive elasticity in the rules governing [regular federal] judicial proceedings, over which [those] judges have a degree of supervisory authority.”62

Virtually the only significant departure from the military paradigm is the one forced by Boumediene: adjudication by civilian federal judges. Nevertheless, Sulmasy does everything possible to control the latter’s influence, borrowing heavily from earlier proposals by other conservative commentators.63 More precisely, the court’s constituting legislation “must be specific as to the . . . limited authority of the court.”64 Most critically, “[it] needs to limit the creativity of the court . . . mak[ing] clear to the judges that this is not an ordinary criminal court, and, as such, the judges should refrain from making analogies to the civilian system in deciding their cases.”65 Security court judges, in other words, would be “legislatively guide[d]” away from extending further constitutional rights to detainees.66 In addition, any departure from the legislated strictures of the court would be subject to immediate, as-of-right, interlocutory appeal by the prosecution (i.e., the military judge advocates), though not the defense; such interlocutory appeals would be reviewed on a standard of “error[] committed in applying the National Security Court legislation.”67 All these features quite obviously buttress the executive’s control over the adjudicatory process and the substantive findings available to the court.

#### This causes rubber-stamping of executive detention decisions

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The preceding developments would still not equate to the Shapiro/Stephen model of jurisdictional transfer if FISC was similarly independent to the federal courts that would otherwise review warrant applications. Importantly however, FISC has demonstrated an astounding lack of independence over its three-decade history: between 1978 and 2004, the court processed 18,742 warrant applications, modifying 181 and denying only four.169 "What emerges from this data,” observes Theodore Ruger, “is a government success rate unparalleled in any other American court.”170 A former National Security Agency intern and now law professor, Jonathan Turley, opines that FISC “would have signed anything that we put in front of [it].”171 As a result, several commentators regard FISC as “little more than a rubberstamp” for the executive.172 The court’s appellate branch, the Foreign Intelligence Surveillance Act Court of Review, is publicly known to have convened only twice: in 2002, overturning restrictions FISC had placed on a warrant,173 and in 2008, upholding controversial amendments to the Foreign Intelligence Surveillance Act.174 Prior to these two anomalous decisions, one of the appellate branch’s former judges reportedly stated that his position was “an empty title as far as I am concerned.”175 Based on its track record, one can reasonably suspect that FISC operates as a non-independent forum to which the government has transferred warrant review, precisely reflecting the dynamic of Shapiro and Stephen’s theoretical model.

FISC’s dubious record would perhaps be unsurprising were the court comprised of Article I adjudicators, in accordance with Meltzer’s vision for how Shapiro and Stephen’s process would unfold in the United States.176 Interestingly however, FISC is composed of eleven Article III judges drawn from among the federal district courts, selected by the Chief Justice of the U.S. Supreme Court.177 These judges maintain regular district court caseloads and serve on FISC part-time, for seven-year, nonrenewable terms.178 Despite the court’s track record, therefore, one is at pains to detect any apparent source of dependence among its judges. Ruger attempts to solve this puzzle empirically by examining Chief Justice Rehnquist’s appointments to FISC in 1992, 1997, and 2002.179 What Ruger uncovers is strikingly reminiscent of the manner by which Spain’s Tribunal de Orden Público achieved its remarkable lack of independence despite being composed of apparently independent judges. More specifically, Ruger hypothesizes that would-be FISC judges “self-promoted” themselves to the Chief Justice – known for his conservative, pro-government ideology – by submitting more progovernment Fourth Amendment decisions for publication than their colleagues.180 This signaling practice enabled the Chief Justice to more easily select pro-government FISC judges.181 This careerism produced, as in Spain, a nominally independent court that in practice operates to implement the executive’s will, as its record attests.

The preceding analysis of FISC holds significant implications for Sulmasy’s proposed national security court system. Starkly phrased, the mere presence of Article III judges is no magic bullet. Moreover, the criteria of judicial selection operating in both Spain’s Tribunal de Orden Público and FISC appear analogous to Sulmasy’s proposal, in that his court would be comprised of judges “versed in this unique area of law” – which, as reviewed earlier, Sulmasy employs as a euphemism for judges sympathetic to the executive and therefore willing to limit their “creativity” while interpreting constitutional rights.182 Meltzer recognizes this problem in the abstract, arguing that specialized courts are more vulnerable to political influence than generalist courts – a prediction that FISC radically bears out – and thus liberal scholars should not presume that specialized Article III courts would by themselves solve the independence problems of Article I tribunals.183 Whether Sulmasy’s bench consists of Article I or Article III adjudicators therefore appears less determinative of its independence that one would intuitively suspect.184

As Judith Resnik argues, “Article III looks thin . . . [it] misses the institutional needs of a judiciary . . . for its ability to work, let alone to be a player in governance.”185 Extending Reznik’s insight, one might hypothesize that structural bias in a court system will prejudice independence even where Article III judges are present. Neither FISC nor Sulmasy’s proposal fare well in this respect: both systems exhibit built-in pro-government bias, which can only exacerbate their anterior judicial independence deficits. For instance, as Ruger observes, an important reason why FISC’s appellate branch virtually never convenes is that only government can appeal,186 which in turn likely promotes stronger pro-government bias at first instance due to a lack of oversight.187 Similarly, only the prosecution (i.e., the military) may bring as-of-right interlocutory appeals in Sulmasy’s proposal,188 which one would expect to instill bias into its procedural jurisprudence. The accretion of further sources of bias – for example, both prosecution and representation of suspected terrorists by military judge advocates,189 executive control over facilities and logistics,190 and executive-biased presumptions about the proper balance between constitutional rights and military objectives191 – can only worsen this problem. The military’s pervasive institutional integration within Sulmasy’s national security court system clearly fails to satisfy the institutional needs of independence to which Resnik refers. Sulmasy’s proposal therefore, if implemented, would risk repeating the FISC debacle.192

#### That causes serial policy failure

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The preceding sections demonstrate that virtually all the foreign and domestic antecedents of Sulmasy’s proposal exhibit similar characteristics: by transferring jurisdiction from more independent to less independent adjudicators, they facilitate politically motivated executive action unchecked by the rigors of legitimate judicial review. Recognizing this dynamic should provide liberal commentators with stronger theoretical ammunition with which to critique national security court proposals. To elaborate, several legal scholars have recently emphasized the dialogic nature of judicial review in the American constitutional system. As Barry Friedman observes, “judicial review is central to American political discourse,” a means of facilitating dialogue between the branches of government and the larger population.193 Josh Benson likewise argues that the U.S. Supreme Court “wield[s] judicial review less to vindicate its own policy preferences than to promote the democratic involvement of each branch in wartime policy.”194 These insights imply that a non-independent national security court, as Sulmasy effectively proposes, would risk short-circuiting American political discourse and make for ill-considered, ineffective national security policy. As Stephen Holmes argues, “the claim that an executive agency will, on balance, perform best when it is never observed or criticized would not be worth discussing were it not so vehemently advanced.”195 Mark Davies similarly asks, “what form of judicial review is most likely to assure that we get the best possible performance from our security agencies,” in terms of “accurate facts and logical thinking?”196 Davies concludes that FISC represents a suboptimal model because it fails to meaningfully evaluate the executive’s security claims, and thereby provides “little reason to think that [it] advances [security].”197

Indeed, as Robinson argues, available evidence suggests that FISC has produced an “ambiguous, if not minimal” effect on counterintelligence metrics.198 There would accordingly seem little reason to predict that Sulmasy’s proposal would advance security against terrorism, structured as it is to promote less rigorous adjudication of habeus corpus applications, and thereby less targeted and effective detainment and prosecution of terrorists. As Holmes argues, “[i]f a government no longer has to provide plausible reasons for its actions, [] it is very likely [] to stop having plausible reasons for its actions.”199 In Sulmasy’s haste to minimize the impact of bothersome constitutional protections on the military’s counter-terrorism objectives, he neglects to consider that the latter may not obtain without the former.

#### It will be perceived as replicating Guantanamo – it shreds US credibility and undermines allied cooperation

**Colson, 9** - Acting Director, Law & Security Program at Human Rights First (Deborah, “The Case Against A Special Terrorism Court” March)

Proposals for a special terrorism court should be rejected

􀂄 A special terrorism court is unnecessary and impractical: Among the many lessons learned from the misguided Guantánamo episode are the practical difficulties of trying to create new, ad hoc justice systems. Just like the military commissions at Guantánamo, a new court inevitably would be bogged down in litigation and delay.

􀂄 Our procedural safeguards and evidentiary standards comprise the bedrock of American justice: A new court would undermine the integrity of the justice system and perpetuate the damage to America’s reputation for fairness and transparency done by unjust military commissions and prolonged detention without charge at Guantánamo.

􀂄 Special courts and detention without trial undermine U.S. counterterrorism strategy: Creating a state-side replica of the Guantánamo legal regime would impair counterterrorism cooperation with our allies and fuel terrorist recruitment.

### 1nc international law

#### No Brazil Prolif

Forman 12 - J.D., Ph.D. is a Senior Associate with the CSIS Americas Program. (Joanna, Nuclear weapons: Brazil and the no nukes option”, 9/11/12, <http://www.voxxi.com/nuclear-weapons-brazil-nukes-option/>, HW)

Brazil’s acquisition of six nuclear submarines raises the issue of nuclear proliferation in a region of the world that renounced the use of nuclear weapons. But not in the way most casual observers would think. First, to set the record straight, the Brazil nuclear submarine joint venture with France will guard its 3000 miles of Atlantic coast and is a logical extension of its rise as a global power. After all, [Brazil’s extensive national wealth lies below the ocean floor](http://www.voxxi.com/brazil-chevron-oil-spill-environmental-damage/). Second, the nuclear reactors used in the submarines will be built by Brazil and coordinated through a new state-owned company, Blue Amazon Defense Technologies or Amazul. These reactors use low-enriched uranium, the same used in French submarines. The decision to use this type of nuclear fuel enables enrichment and manufacturing in its civilian plants. As such, the submarines are not in violation of the Nuclear Non-Proliferation Treaty of which Brazil is a party. Brazil’s 1988 constitution affirms the use of nuclear materials for peaceful purposes, but specifically renounces their use in arms. The American states are part of the global community, no longer the junior partner in a relationship dominated by the United States. The challenge ahead will be to promote a more responsible approach to regional problems we all face that go beyond our [borders—crime](http://www.voxxi.com/public-security-casualty-drug-war/), [climate change](http://www.voxxi.com/drought-el-nino-food-insecurity/), migration, [trafficking](http://www.voxxi.com/mexicos-drug-war-is-vietnam/), pandemics and more. Eleven countries in the hemisphere have signed on to the 2003 Proliferation Security Initiative that seeks cooperation in interdicting nuclear and other threatening arms concealed on ships and planes. In similar spirit, governments might embrace new multilateral arrangements that offer the region and our own country peaceful means of resolving problems, while also promoting a deeper partnership for the combating future threats. In the final analysis, we should never forget that a region without [nuclear weapons](http://www.voxxi.com/summit-lets-obama-putin-size-competitio/) gives us common ground to build more constructive partnerships around other goals—stronger democratic governance, access to justice, and opportunities for workers to become educated to meet future economic needs. The hemisphere’s policymakers should consider how to riff off the success of a 45-year-old idea—a nuclear free zone—to create the Americas as a zone of peace, equality, justice and self-fulfillment for all citizens. That would be the way to get respect from the major powers.

#### Their prolif discourse is violent, racist, and wrong

David **Mutimer**, Assistant Prof of Political Science at York University, **2000**, The Weapons State, pg 93-95

The U. S. military appears to have been central in the construction of a new category of threat, the rogue state governed by an outlaw regime. The timing of that construction was unfortunate for Iraq. As has been widely reported, U. S. Ambassador to Iraq April Glaspie met the Iraqi leadership a few days before the invasion of Kuwait. The message of that meeting seems to have been that the United States was not overly concerned with Iraq's border dispute with Kuwait. Even if the meeting could not be read as a tacit approval of the invasion (and it is not impossible to read it that way), it did not indicate the sort of response the United States mounted after 2 August. [38](http://www.questia.com/PM.qst?a=o&d=105847254) The problem is that the Rogue Doctrine was a construction of the military and had not yet been formally announced. It is reasonable to assume that a diplomat in a relatively minor posting would not be aware of the reworking of U. S. military doctrine the president was about to announce. There is, of course, a much more cynical interpretation of these events, which would argue that the United States sought a convenient illustration of its newfound enemy. Either way, in July 1990 there were no rogue states because the category had not been articulated. In July 1990, as Glaspie met Hussein, Iraq was a regional power that had been employed by both superpowers during the Cold War and that had a not unreasonable grievance with one of its neighbors. On 2 August President Bush announced a new category, a new set of markers by which the identity of states could be interpreted. On 2 August Iraq acted in a fashion that fit this contemporaneously articulated set of markers. Other Iraqs, **rogues, and outlaws are** now the **currency of** the international **discourse of proliferation** that grew out of the Western response to the Gulf War. These are the labels, drawn from the debate in the United States, applied to states whose behavior causes serious concern to the Western powers in their supplier groups. What sort of labels are they? What lines of difference do these labels establish? To answer these questions, we can look at rogues and outlaws as metaphors that link the proliferation image to other, more widespread discourses and discover the entailments they draw from these discourses. Rogues and outlaws are used similarly in everyday language. A rogue is defined by the Oxford English Dictionary as: “1. One belonging to a class of idle vagrants or vagabonds. … 2. A dishonest, unprincipled person; a rascal. … 5. An elephant driven away, or living apart from, the herd and of a savage or destructive disposition. ” Similarly, an outlaw is “one put outside the law and deprived of its benefits and protection. … More vaguely: One banished or proscribed; an exile, a fugitive. ” Both rogues and outlaws are used in everyday language to identify criminals, although generally not the worst and most hardened criminals. Indeed, a certain romanticism is attached to both the rogue and the outlaw. The rogue is one who steps outside the limits of acceptable behavior but in a way that tends to be appealing to those who do not dare to commit such transgressions—thus, for example, the definition of rogue as rascal. Similarly, the outlaw is a common figure in U. S. romantic Western literature. Outlaws roamed the frontiers of the central United States, at once dangerous and admired for the rugged individualism they portrayed. Little of this romanticism seems to remain in the use of rogues in official discourse, however. U. S. Secretary of State Warren Christopher did not seem to admire the rugged individualism of potential rogues, for instance, when he told the Senate Foreign Relations Committee that “nuclear weapons give rogue states disproportionate power, destabilize entire regions, and threaten human and environmental disasters. They can turn local conflicts into serious threats to our security. In this era, weapons of mass destruction are more readily available—and there are fewer inhibitions on their use. ” [39](http://www.questia.com/PM.qst?a=o&d=105847254)  Nevertheless, the use of rogue carries with it marked condescension. **Rogues are**, as often as not, young men, indeed even **little boys**, who are **acting naughtily**—in the former case often in a sexual manner. One of the many ironies that emerge in stories of proliferation is that at the same time the primary international rogue, Iraq, was under intense U. S. pressure because of its refusal to allow UNSCOM unfettered access to its presidential palaces, the U. S. president was being labeled a rogue for reports that he had perhaps allowed too much access to presidential parts. “Some of the President's intimates note his remarkable ability to compartmentalize his life: The policy wonk who genuinely admires his wife resides in one space; the rogue who risks political standing through personal indiscretion occupies another. ” [40](http://www.questia.com/PM.qst?a=o&d=105847254) Put another way, **the mature adult resides on** the **one side and the** rather **indiscreet little boy on the other**. The use of **rogue** to label states behaving in ways deemed unacceptable **identifies** those **states as immature** compared with the mature states doing the labeling—foremost among these the United States. **Such** an entailment **fits** well **with the practices** established **for proliferation control**. The mature elders gather together to determine which states are sufficiently responsible to be trusted with advanced technologies and military equipment—indeed, the practice smacks of Star Trek's Prime Directive. This notion of maturity is then reflected in academic commentary on contemporary security, as Charles Krauthammer's characterization of the weapon state threat illustrates: “relatively small, peripheral and backward states will be able to emerge rapidly as threats not only to regional, but to world, security. ” [41](http://www.questia.com/PM.qst?a=o&d=105847254) Similarly, **a repeated concern** in the literature **has been** that **new nuclear states** would **lack** the **maturity to control** their **weapons adequately**, unlike the old nuclear states. [42](http://www.questia.com/PM.qst?a=o&d=105847254)  Perhaps the most interesting definition of rogue and outlaw is the one they share: both terms are used to describe members of a community expelled from that community or no longer living within the constraints of communal life. In medieval Europe the outlaw was outcast, placed beyond the protection the law provided as punishment. Later, the outlaw in the mythology of the American West fled from life within the community to escape the (often rough) justice of the frontier. Similarly, **the rogue animal is** one that has been **forced from the herd** or that for some reason has left the herd. **Evoking these terms in** the **proliferation discourse** clearly **marks the logic of identity and difference, of inside and outside**, which were evident in the practices examined earlier. **For there to be rogues** and outlaws **there must** also **be a** larger, settled **community whose rules the outlaws refuse** to follow. It would seem that the U. S. military's concern with defending its budget following the Cold War threw up a powerful new marker of identity/difference for the contemporary practice of international security. The idea of the rogue state has achieved wide currency in popular discussion of international affairs. Klare cites a U. S. Congress study to the effect that in major newspapers and journals, the use of rogue nation, rogue state, and rogue regime increased more than 1,500 percent between 1990 and 1993. [43](http://www.questia.com/PM.qst?a=o&d=105847254) The label originally devised to categorize potential military opponents was quickly drawn into the construction of the new proliferation control agenda following the Gulf War, as Iraq was identified as the first of the rogues. **The notion of the rogue state provides agency in an image of an international security problem** largely devoid of agency. The term is used to label states whose behavior causes serious concern to the members of the supplier groups, identifying them as outsiders, **immature states** unable or **unwilling to follow the rules of civilized state action**— rules policed by that same core of supplier states.

#### No bio threat—empirics and science

Dove 12 [Alan Dove, PhD in Microbiology, science journalist and former Adjunct Professor at New York University, “Who’s Afraid of the Big, Bad Bioterrorist?” Jan 24 2012, http://alandove.com/content/2012/01/whos-afraid-of-the-big-bad-bioterrorist/]

The second problem is much more serious. Eliminating the toxins, we’re left with a list of infectious bacteria and viruses. With a single exception, these organisms are probably near-useless as weapons, and history proves it.¶ There have been at least three well-documented military-style deployments of infectious agents from the list, plus one deployment of an agent that’s not on the list. I’m focusing entirely on the modern era, by the way. There are historical reports of armies catapulting plague-ridden corpses over city walls and conquistadors trying to inoculate blankets with Variola (smallpox), but it’s not clear those “attacks” were effective. Those diseases tended to spread like, well, plagues, so there’s no telling whether the targets really caught the diseases from the bodies and blankets, or simply picked them up through casual contact with their enemies.¶ Of the four modern biowarfare incidents, two have been fatal. The first was the 1979 Sverdlovsk anthrax incident, which killed an estimated 100 people. In that case, a Soviet-built biological weapons lab accidentally released a large plume of weaponized Bacillus anthracis (anthrax) over a major city. Soviet authorities tried to blame the resulting fatalities on “bad meat,” but in the 1990s Western investigators were finally able to piece together the real story. The second fatal incident also involved anthrax from a government-run lab: the 2001 “Amerithrax” attacks. That time, a rogue employee (or perhaps employees) of the government’s main bioweapons lab sent weaponized, powdered anthrax through the US postal service. Five people died.¶ That gives us a grand total of around 105 deaths, entirely from agents that were grown and weaponized in officially-sanctioned and funded bioweapons research labs. Remember that.¶ Terrorist groups have also deployed biological weapons twice, and these cases are very instructive. The first was the 1984 Rajneeshee bioterror attack, in which members of a cult in Oregon inoculated restaurant salad bars with Salmonella bacteria (an agent that’s not on the “select” list). 751 people got sick, but nobody died. Public health authorities handled it as a conventional foodborne Salmonella outbreak, identified the sources and contained them. Nobody even would have known it was a deliberate attack if a member of the cult hadn’t come forward afterward with a confession. Lesson: our existing public health infrastructure was entirely adequate to respond to a major bioterrorist attack.¶ The second genuine bioterrorist attack took place in 1993. Members of the Aum Shinrikyo cult successfully isolated and grew a large stock of anthrax bacteria, then sprayed it as an aerosol from the roof of a building in downtown Tokyo. The cult was well-financed, and had many highly educated members, so this release over the world’s largest city really represented a worst-case scenario.¶ Nobody got sick or died. From the cult’s perspective, it was a complete and utter failure. Again, the only reason we even found out about it was a post-hoc confession. Aum members later demonstrated their lab skills by producing Sarin nerve gas, with far deadlier results. Lesson: one of the top “select agents” is extremely hard to grow and deploy even for relatively skilled non-state groups. It’s a really crappy bioterrorist weapon.¶ Taken together, these events point to an uncomfortable but inevitable conclusion: our biodefense industry is a far greater threat to us than any actual bioterrorists.

#### Restricting detention doesn’t solve – international law is structurally incapable of preventing abuses

**Shiner, 06** – Phil, solicitor at Public Interest Lawyers and a Visiting Professor at London Metropolitan University (“Guantanamo is small part of bigger picture,” Birmingham Post & Mail, 2006, accessed at http://www.thefreelibrary.com/Guantanamo+is+small+part+of+bigger+picture%3B+Birmingham+lawyer+Phil...-a0145497271 //Red)

Guantanamo Bay, the US practice of extraordinary renditions, and the UK's reliance on diplomatic assurances when deporting foreign nationals at risk of torture, are all undeniably bad things. Lately, however, the British media have tended to focus almost exclusively on these relatively narrow human rights issues to the **detriment of the bigger picture**. An analysis of recent political events might explain why Tony Blair will not cross the White House over Guantanamo Bay or other issues, and challenges us to resist extremely worrying developments within international law in the present era. It must be understood that the Blair and Bush Administrations stand together in pushing forward a new project. They use the attacks of 9/11 and the rhetoric of a 'war on terror' for a very different agenda. This becomes clear from, for example, the recent speeches of Tony Blair and John Reid, the outgoing Defence Secretary. These speeches build on earlier ones, such as Blair's speech in his constituency in March 2004, and earlier events, for example, the political row when it became clear that existing international law would not sanction the attack on Iraq in March 2003. One can summarise this agenda from a UK perspective: in the era of global capitalism the international community is increasingly interdependent. It must act together to enforce global values and meet global concerns. There is a fundamental clash between, on the one hand, progress and modernity and, on the other, extremism and conflict. Extremism is defined as Muslim fundamentalism or terrorism. This clash about civilisation is hugely determinate of the UK's future. The **international community needs to reform its institutions**, in particular the UN and its Security Council, to ensure that international law does permit the international community to take preemptive action if a state threatens these global values. Such action may have to be **justified through the language of humanitarian intervention** so that another exception to the prohibition on the use of force in international relations can be opened up. **This exception will allow future interference** in the affairs of a sovereign state if there is 'actual or threatened repression'. What is key here is that this project is already well underway. Both states have already demonstrated on ample occasions that when international law gets in the way **they will find devices to change it**, **or** they will **ignore it.** For instance, both have used the Security Council as a legislative body to manipulate international law.

#### International law violations inevitable

**Greenan, 13** – Matthew, independent journalist, political commentator and foreign policy analyst with a degree in international relations (“A Flagrant Disregard for the Rule of Law,” Greenan Report, 8/3/12, http://greenanreport.wordpress.com/2013/08/03/a-flagrant-disregard-for-the-rule-of-law/ //Red)

As the last remaining superpower, in a unipolar world, the US will do anything to maintain its hegemony and feels any action it conducts is legitimate, legal and moral due to its superpower status. This **flagrant disregard for the rule of law** and unparalleled hypocrisy has never been more present. After violating their own domestic and international standard for the protection of whistleblowers, by tirelessly hunting down Edward Snowden, the US has now turned to threatening diplomatic relations with Russia for giving him his due process of asylum, under international law. This comes only weeks after the international community was threatened into following US demands, when the US clearly breached the Vienna Convention, one of the most important international laws, by forcing down the Bolivian President Evo Morales jet. On the other hand, despite the US claiming Edward Snowden is a wanted criminal, who violated US law and must immediately be returned to face the US justice system, former US CIA agent Robert Seldon Lady convicted of kidnapping in 2009 by an Italian court walks free. Lady along with twenty-two other CIA agents, are wanted by Italian authorities for torturing and kidnapping Islamic cleric Hassan Mustafa Osama Nasr, back in 2003 during the CIA extraordinary rendition program. Arrested in Panama, it only took one day for Panama’s authorities to back down to US hegemony, allowing for Lady to escape the Italian justice system and return safely to US soil. For all those that follow US international relation from an unbiased perspective, **US actions are nothing new.** The US has always had one rule for itself, and another rule for any other state. However, what makes thing’s different is the US hypocrisy and global hegemony is now laid bare for all to see. The question now is will the international community and the general public alike pressure the US government to uphold to the rule of law it so often preaches? Or will we continue to allow the US to set its own international standards, dependent on its own foreign and domestic objectives?

### 1nc legitimacy

#### The idea that America, its policies, its relationships with other countries, and its participation in global institutions are make-or-break to prevent the world from exploding belies the fundamental arrogance and ethnocentrism at root of the 1ac – the impact’s extinction

**Willson, 02** [Brian – Ph.D New College San Fransisco, Humanities, JD, American University, “Hearts and Minds Veterans Show?]**<** http://www.brianwillson.com/?q=node/70

On September 20, 2002, the selected resident of the White House submitted his National Security Strategy to Congress, perhaps the first time our nation has so openly espoused a doctrine absolutely and explicitly imperialist. Its declaration of permanent global dominance "beyond challenge" over the 95 percent of humanity that is non-U.S. is indeed frightening. The coming egregious assault upon Iraq will be its first implementation, no matter whether the U.N. or other nations vigorously object. Even IF the Congress objects, resident Bush has argued that the Joint Resolution on Authorization for Use of Military Force, overwhelmingly passed by Congress in the aftermath of September 11, authorizes military actions on his own volition. Call it what you will, but we are experiencing a virtual dictatorship ruled without respect for law, with one party comprising two right-wings preempting effective checks and balances. I believe a global imperial policy has its roots in our civilization's history. Its current boldness in a unipolar world is a logical and inevitable result of the collective Western and American Way Of Life (AWOL). The United States, with but 4.5 percent of the world's population, in fact consumes anywhere from 25 percent to nearly half the world's resources, and together with the West, comprises 25 percent of the world's population consuming 85 percent of resources. Thus, 75 percent of the world's human beings are impoverished with but 15 percent of the remaining finite resources. This grotesque injustice is further exacerbated by globalization's demands for ever-increasing production and consumption of limited resources, with life-destroying pollution a by-product. If we insist on continuing to rationalize business-as-usual with our insatiable addictions, expansion of our global hegemony is required to assure access to ever-more resources, markets, and cheap labor, as if they are infinitely exploitable. However, if we insist on continuing, know that **we are committing species suicide**. The seeds of our cultural ethos and mind-set originate in the extreme ethnocentrism and deep-seated racism of our European ancestors in the 1600s, when the white Puritans mandated their godly nature to reign supreme over the "savage" Indigenous inhabitants already living here. John Winthrop, governor of Massachusetts, wrote in 1630: "We shall find that the God of Israel is among us, when ten of us shall be able to overcome a thousand of our enemies; we shall be as a City upon a Hill." Expanding westward was a given, and by the 1840s, John L. Sullivan, editor of the *Democratic Review,* wrote that territorial additions were "the fulfillment of our manifest destiny to overspread the continent allotted by Providence for the free development of our yearly multiplying millions." By the end of the 19th Century, domestic production exceeded consumption capacities. Continued profitability demanded overseas economic expansion as the new frontier. Woodrow Willson lectured at Columbia University that "Since trade ignores national boundaries and the manufacturer insists on having the world as a market, the flag of his nation must follow him, and the doors of the nations which are closed must be battered down." The McKinley administration, with the Spanish-American War in 1898 that acquired Cuba, Puerto Rico, Guam, and the Philippines, and annexation of Hawaii the same year, launched what some call "the American Century." Teddy Roosevelt soon took Panama from Colombia. The U.S. was becoming an imperial power. With victory in World War II and utilization of shocking new weapons of cosmic violence, the U.S. possessed a new cockiness. Its only obstacle was the Soviet Union, the product of the 1917 Bolshevik revolution that espoused socialism as the first comprehensive alternative to capitalism. Though the U.S. knew the Soviets were exhausted after the war, losing 15 percent of its population with much of its industrial and agricultural capacity destroyed, it was deemed important to eliminate the threat it posed for inspiring the impoverished of the world to revolt from centuries of colonialism. In 1948, George Kennan, director of the U.S. State Department's planning staff, secretly advocated an honest approach to our foreign policy: "We have about 50% of the world's wealth, but only 6.3 percent of its population. We cannot fail to be the object of envy and resentment. Our task is to.maintain this position of disparity. Our attention will have to be concentrated everywhere. We should cease to talk about unreal objectives such as human rights, the raising of living standards, and democratization. The day is not far off when we are going to have to deal in straight power concepts." Shortly thereafter, secret National Security Council study known as NSC-68 asserted that the U.S. had a unique right and responsibility to impose "order among nations," needing to "check the Kremlin" so that "our free society can flourish." U.S. policy, it said, "must foster a fundamental change in the nature of the Soviet system," assuring "belief in ourselves and in our way of life." It was framed in apocalyptic terms: "Fulfillment or destruction not only of this Republic but of civilization itself." From 1947 to the present, the U.S. militarily intervened over 200 times, covertly perhaps as many as 10,000 times, in more than 100 nations, thwarting the restiveness of aggrieved peoples. Virtually all interventions, if known, were couched in pretexts subsequently proven false. Hundreds of millions were murdered, maimed and impoverished. Today, we have military troops in over 100 countries, training programs in 180. This history was preceded by earlier genocides committed against the original Indigenous inhabitants and Africans, providing us a "free" land base and labor pool. Millions were murdered. Thus, the foundation for U.S. and Western civilization is systemic, **virtually incomprehensible injustice**, murder and plunder. Our fantasy lie exposed demands radical consciousness shifts toward justice and mutual respect. **We are living in view of our apocalyptic City on the Hill** that seeks to control everyone and everything everywhere. It is a fundamentalism that has no equals. We are living during an evolutionary opportunity to SEE the deleterious effects of our Way Of Life on all life, everywhere. Perhaps we are offered a cosmic Zen gift disguised as modern Puritan extremists that might enable us to comprehend the EXTREME danger our materialist values and policies pose for all. When serious threats are perceived, our species possesses an ancient survival mechanism able to motivate unprecedented responses. Our 8 million year evolutionary journey as a bi-pedal species has succeeded so far through many adaptations and much cooperation. Archaelogist V. Gordon Childe wrote, *Man (sic) Makes Himself.* What we have created we can uncreate. We are completely capable of identifying sustainable alternatives to the violence of civilization, while withdrawing our support from its oligarchic structures. To survive, we must take responsibility for extricating ourselves from complicity in the dangerous U.S. American civilization which, if not stopped, promises to destroy the Earth as we know Her, **accelerating our rapid extinction**. Gandhi prescribed nonviolent resistance to imperialism accompanied by living the local, self-reliant alternatives. The time is now!

#### The aff is an attempt to organize the space of the world into an American sphere – causes results in an endless war against those who oppose American power, results in extinction

**Peet** Graduate School of Geography, Clark University, **2k5** (Richard, “From Eurocentrism to Americentrism” Blackwell Synergy)

All centrisms see the world through the delusions of their own selfimportance. Geo-centrisms see the world through the collective myths created about the central We and the peripheral They. At worst, as with the above list of cliche´s, these myths combine ignorance with hatred, and dominance with fear. Fordist Americentrism takes delusion further into the realm of geo-pathological fantasy. The world is ‘‘understood’’ through headlines and newsleads that titillate prejudice so better to prepare for the main purpose of communication, the stimulation of consumption through the incessant barrage of advertisements. The news is hyped, through a combination of simplification with exaggeration, to keep the attention of those bored by overexposure to a synthetic plenitude of the best and worst of everything, till the next ad break, with this rhythm repeated so many thousands of times that it becomes the eternal cycle of postmodern Western consciousness. As Barnett’s book abundantly shows, contemporary Americentrism ‘‘knows’’ the world only through myths made in the market, under the pressures of the domination of the object over the subject. However, the terrible events of September 11, an attack on the economic and political centers of American power, turned collective delusion into collective derangement. Now we have a geo-centrism that wants to protect itself by forcing the world’s peoples to become our cultural mimics (we are ‘‘connectivity personified’’). The world will be made safe for Americans, **by making the world American**. Instead of trying to understand the cultures of the world’s peoples, America commits to obliterating them. So it is too that a good man, Thomas P M Barnett, who comes to save the world, does his bit to destroy any potential there might still be for a lasting peace. That peace can come only from cultural appreciation, whereas what we have here, from the neoliberal end of the now neo-conservative amilitary–ideological complex, is a symptom of the will **to culturally annihilate** all those who dare to differ from the American dream. Exactly this attitude, culturalizing the willing, bombing the recalcitrant, into a future they must surely want (for everyone is born with ‘‘freedom in their hearts’’), has already killed tens of thousands of largely innocent people in Iraq (and for every episode of ‘‘collateral damage’’ read a hundred angry kids vowing revengeful lives). But if the Barnetts of this world get their way, **Iraq is merely the beginning of a perpetual war to create the conditions of a lasting peace** (a Pax Americana whose next regime change candidates, Iran and North Korea, are already lined up). We will bring them democracy, whether they want it or not. **We will force them to be free**. And we will continue doing so for generations to come. As Barnett (2004b:148) said more recently about the US invasion of Iraq: ‘‘The boys are never coming home. America is not leaving the Middle East until the Middle East joins the world. It’s that simple. No exit means no exit strategy’’. So Barnett tells the younger, progressive officers at the Pentagon, the future leaders of the armed forces who will ‘‘protect’’ Americanism in a future made less certain by the explosions of September 11. With such double-speak, Americentrism shows itself to be the most dangerous ideology the world has ever known, far more dangerous than Eurocentrism essentially because of two things: because even a simple reflexivity allows almost complete immunity from effective self-criticism; and because of **a techno-logical ability to destroy civilizations at will.** Jim’s critique of Eurocentrism needs replicating with an equally compelling critique of Americentrism.

#### Can’t solve legitimacy

Steve **Chapman 9/5**/13, columnist and editorial writer for the Chicago Tribune, “War in Syria: The Endless Quest for Credibility,” http://reason.com/archives/2013/09/05/war-in-syria-the-endless-quest-for-credi

The United States boasts the most powerful military on Earth. We have 1.4 million active-duty personnel, thousands of tanks, ships and planes, and 5,000 nuclear warheads. We spend more on defense than the next 13 countries combined. Yet we are told we have to bomb Syria to preserve our credibility in world affairs.¶ Really? You'd think it would be every other country that would need to confirm its seriousness. Since 1991, notes University of Chicago security scholar John Mearsheimer, the U.S. has been at war in two out of every three years. **If we haven't secured our reputation by now, it's hard to imagine we ever could.**¶On the surface, American credibility resembles a mammoth fortress, impervious to anything an enemy could inflict. But to crusading internationalists, both liberal and conservative, it's a house of cards: The tiniest wrong move, and it collapses.¶ In a sense, though, they're right. The U.S. government doesn't have to impress the rest of the world with its willingness to defend against actual attacks or direct threats. But it does have to continually persuade everyone that we will lavish blood and treasure for purposes that are irrelevant to our security.¶ Syria illustrates the problem. Most governments don't fight unless they are attacked or have dreams of conquest and expansion. War is often expensive and debilitating even for the winners, and it's usually catastrophic for losers. Most leaders do their best to avoid it.¶ So even though the Syrian government is a vicious, repressive dictatorship with a serious grudge against Israel, it has mostly steered clear of military conflict. Not since 1982 has it dared to challenge Israel on the battlefield. When Israeli warplanes vaporized a Syrian nuclear reactor in 2007, Bashar al-Assad did nothing. The risks of responding were too dire.¶ But the U.S. never faces such sobering considerations. We are more secure than any country in the history of the world. What almost all of our recent military interventions have in common is that they involved countries that had not attacked us: Libya, Iraq, Serbia, Haiti, Somalia, Panama, Grenada and North Vietnam.¶ With the notable exception of the Afghanistan invasion, we don't fight wars of necessity. We fight wars of choice.¶ That's why we have such an insatiable hunger for credibility. In our case, it connotes an undisputed commitment to go into harm's way even when -- especially when -- we have no compelling need to do so. But it's a sale we can never quite close.¶ Using force in Iraq or Libya provides no guarantee we'll do the same in Syria or Iran or Lower Slobbovia. **Because we always have the option of staying out, there's no way to make everyone totally believe we'll jump into the next crisis.**¶The parallel claim of Washington hawks is that we have to punish Assad for using nerve gas, because otherwise Iran will conclude it can acquire nuclear weapons. Again, our credibility is at stake. But how could the Tehran regime draw any certain conclusions based on what happens in Syria?¶ Two American presidents let a troublesome Saddam Hussein stay in power, but a third one decided to take him out. George W. Bush tolerated Moammar Gadhafi, but Barack Obama didn't. Ronald Reagan let us be chased out of Lebanon, only to turn around and invade Grenada. **If you've seen one U.S. intervention, you've seen one.**¶What should be plain to Iran is that Washington sees nuclear proliferation as a unique threat to its security, which Syria's chemical weapons are not. Just because we might let Assad get away with gassing his people doesn't mean we will let Iran acquire weapons of mass destruction that would be used only against other countries. Heck, we not only let Saddam get away with using chemical weapons against Iran -- we took his side.¶ Figuring out the U.S. government's future impulses is hard even for Americans. There's no real rhyme or reason. But because we're so powerful, **other governments can ill afford to be wrong**. What foreigners have to keep in the front of their minds is not our inclination to act but our capacity to act -- **which remains unparalleled whatever we do in Syria.**¶Credibility is overrated. Sure, it's possible for hostile governments to watch us squabble over Syria and conclude that they can safely do things we regard as dangerous. **But there are graveyards full of people who made that bet.**

#### Pandemics unlikely and no extinction

Ridley **12** [8/17, Matt Ridley, columnist for The Wall Street Journal and author of The Rational Optimist: How Prosperity Evolves, “Apocalypse Not: Here’s Why You Shouldn’t Worry About End Times,” http://www.wired.com/wiredscience/2012/08/ff\_apocalypsenot/all/]

The emergence of AIDS led to a theory that other viruses would spring from tropical rain forests to wreak revenge on humankind for its ecological sins. That, at least, was the implication of Laurie Garrett’s 1994 book, The Coming Plague: Newly Emerging Diseases in a World Out of Balance. The most prominent candidate was Ebola, the hemorrhagic fever that starred in Richard Preston’s The Hot Zone, published the same year. Writer Stephen King called the book “one of the most horrifying things I’ve ever read.” Right on cue, Ebola appeared again in the Congo in 1995, but it soon disappeared. Far from being a harbinger, HIV was the only new tropical virus to go pandemic in 50 years.¶ In the 1980s British cattle began dying from mad cow disease, caused by an infectious agent in feed that was derived from the remains of other cows. When people, too, began to catch this disease, predictions of the scale of the epidemic quickly turned terrifying: Up to 136,000 would die, according to one study. A pathologist warned that the British “have to prepare for perhaps thousands, tens of thousands, hundreds of thousands, of cases of vCJD [new variant Creutzfeldt-Jakob disease, the human manifestation of mad cow] coming down the line.” Yet the total number of deaths so far in the UK has been 176, with just five occurring in 2011 and none so far in 2012.¶ In 2003 it was SARS, a virus from civet cats, that ineffectively but inconveniently led to quarantines in Beijing and Toronto amid predictions of global Armageddon. SARS subsided within a year, after killing just 774 people. In 2005 it was bird flu, described at the time by a United Nations official as being “like a combination of global warming and HIV/AIDS 10 times faster than it’s running at the moment.” The World Health Organization’s official forecast was 2 million to 7.4 million dead. In fact, by late 2007, when the disease petered out, the death toll was roughly 200. In 2009 it was Mexican swine flu. WHO director general Margaret Chan said: “It really is all of humanity that is under threat during a pandemic.” The outbreak proved to be a normal flu episode.¶ The truth is, a new global pandemic is growing less likely, not more. Mass migration to cities means the opportunity for viruses to jump from wildlife to the human species has not risen and has possibly even declined, despite media hype to the contrary. Water- and insect-borne infections—generally the most lethal—are declining as living standards slowly improve. It’s true that casual-contact infections such as colds are thriving—but only by being mild enough that their victims can soldier on with work and social engagements, thereby allowing the virus to spread. Even if a lethal virus does go global, the ability of medical science to sequence its genome and devise a vaccine or cure is getting better all the time.

#### Emissions cuts are impossible – Domestic problems undercut both Chinese and U.S. action

**Hale, 11** - PhD Candidate in the Department of Politics at Princeton University and a Visiting Fellow at LSE Global Governance, London School of Economics (Thomas, “A Climate Coalition of the Willing,” Washington Quarterly, Winter,http://www.twq.com/11winter/docs/11winter\_Hale.pdf

Intergovernmental efforts to limit the gases that cause climate change have all but failed. After the unsuccessful 2010 Copenhagen summit, and with little progress at the 2010 Cancun meeting, it is hard to see how major emitters will agree any time soon on mutual emissions reductions that are sufficiently ambitious to prevent a substantial (greater than two degree Celsius) increase in average global temperatures.

It is not hard to see why. No deal excluding the United States and China, which together emit more than 40 percent of the world’s greenhouse gases (GHGs), is worth the paper it is written on. But domestic politics in both countries effectively block ‘‘G-2’’ leadership on climate. In the United States, the Obama administration has basically given up on national cap-and-trade legislation. Even the relatively modest Kerry-Lieberman-Graham energy bill remains dead in the Senate. The Chinese government, in turn, faces an even harsher constraint. Although the nation has adopted important energy efficiency goals, the Chinese Communist Party has staked its legitimacy and political survival on raising the living standard of average Chinese. Accepting international commitments that stand even a small chance of reducing the country’s GDP growth rate below a crucial threshold poses an unacceptable risk to the stability of the regime. Although the G-2 present the largest and most obvious barrier to a global treaty, they also provide a convenient excuse for other governments to avoid aggressive action. Therefore, the international community should not expect to negotiate a worthwhile successor to the Kyoto Protocol, at least not in the near future.

#### Refuse attempts to reform the system and doom it to its own nihilistic destruction—we must refuse all conceptual apparatuses of capture—that intellectuals subtraction is crucial

Prozorov 10. Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1065

In a later work, Agamben generalizes this logic and transforms it into a basic ethical imperative of his work: ‘[There] is often nothing reprehensible about the individual behavior in itself, and it can, indeed, express a liberatory intent. What is disgraceful – both politically and morally – are the apparatuses which have diverted it from their possible use. We must always wrest from the apparatuses – from all apparatuses – the possibility of use that they have captured.’32 As we shall discuss in the following section, this is to be achieved by a subtraction of ourselves from these apparatuses, which leaves them in a jammed, inoperative state. What is crucial at this point is that the apparatuses of nihilism themselves prepare their demise by emptying out all positive content of the forms-of-life they govern and increasingly running on ‘empty’, capable only of (inflict- ing) Death or (doing) Nothing.

On the other hand, this degradation of the apparatuses illuminates the ‘inoperosity’ (worklessness) of the human condition, whose originary status Agamben has affirmed from his earliest works onwards.33 By rendering void all historical forms-of-life, nihi- lism brings to light the absence of work that characterizes human existence, which, as irreducibly potential, logically presupposes the lack of any destiny, vocation, or task that it must be subjected to: ‘Politics is that which corresponds to the essential inoperability of humankind, to the radical being-without-work of human communities. There is pol- itics because human beings are argos-beings that cannot be defined by any proper oper- ation, that is, beings of pure potentiality that no identity or vocation can possibly exhaust.’34

Having been concealed for centuries by religion or ideology, this originary inoperos- ity is fully unveiled in the contemporary crisis, in which it is manifest in the inoperative character of the biopolitical apparatuses themselves, which succeed only in capturing the sheer existence of their subjects without being capable of transforming it into a positive form-of-life:

[T]oday, it is clear for anyone who is not in absolutely bad faith that there are no longer historical tasks that can be taken on by, or even simply assigned to, men. It was evident start- ing with the end of the First World War that the European nation-states were no longer capa- ble of taking on historical tasks and that peoples themselves were bound to disappear.35

Agamben’s metaphor for this condition is bankruptcy: ‘One of the few things that can be

declared with certainty is that all the peoples of Europe (and, perhaps, all the peoples of the Earth) have gone bankrupt’.36 Thus, the destructive nihilistic drive of the biopolitical machine and the capitalist spectacle has itself done all the work of emptying out positive forms-of-life, identities and vocations, leaving humanity in the state of destitution that Agamben famously terms ‘bare life’. Yet, this bare life, whose essence is entirely con- tained in its existence, is precisely what conditions the emergence of the subject of the coming politics: ‘this biopolitical body that is bare life must itself be transformed into the site for the constitution and installation of a form-of-life that is wholly exhausted in bare life and a bios that is only its own zoe.’37

The ‘happy’ form-of-life, a ‘life that cannot be segregated from its form’, is nothing but bare life that has reappropriated itself as its own form and for this reason is no longer separated between the (degraded) bios of the apparatuses and the (endangered) zoe that functions as their foundation.38 Thus, what the nihilistic self-destruction of the appara- tuses of biopolitics leaves as its residue turns out to be the entire content of a new form-of-life. Bare life, which is, as we recall, ‘nothing reprehensible’ aside from its con- finement within the apparatuses, is reappropriated as a ‘whatever singularity’, a being that is only its manner of being, its own ‘thus’.39 It is the dwelling of humanity in this irreducibly potential ‘whatever being’ that makes possible the emergence of a generic non-exclusive community without presuppositions, in which Agamben finds the possi- bility of a happy life.

[If] instead of continuing to search for a proper identity in the already improper and sense- less form of individuality, humans were to succeed in belonging to this impropriety as such, in making of the proper being-thus not an identity and individual property but a singularity without identity, a common and absolutely exposed singularity, then they would for the first time enter into a community without presuppositions and without subjects.40

Thus, rather than seek to reform the apparatuses, we should simply leave them to their self-destruction and only try to reclaim the bare life that they feed on. This is to be achieved by the practice of subtraction that we address in the following section.

## Block

### 2nc solvency

#### Lower evidence standards are built into the court by design. The reason civilian courts are insufficient is because their procedural safeguards are too strict for the aff authors.

**Hilde, 9** - professor at the University of Maryland School of Public Policy where he teaches seminars in ethics and policy and international environmental and development law and politics(Thomas, “Beyond Guantánamo: Restoring U.S. Credibility on Human Rights” )

Preventive Detention (or Administrative Detention) and a National Security Court. Jack Goldsmith and Neal Katyal (the latter who has been appointed Principal Deputy Solicitor General by Pres. Obama) have proposed indefinite “preventive detention” for anyone who can be shown to be a “suspected terrorist.” This system of detention would be, “overseen by a national security court composed of federal judges with life tenure… Such a court would have a number of practical advantages over the current system. It would operate with a Congressionally approved definition of the enemy. It would reduce the burden on ordinary civilian courts. It would handle classified evidence in a sensible way. It would permit the judges to specialize and to assess over time the trustworthiness of the government and defense lawyers who appear regularly before them. Such a court, explicitly sanctioned by Congress, would have greater legitimacy than our current patchwork system, both in the United States and abroad….” They add that, “criminal prosecutions should still take place where they can. But they are not always feasible. Some alleged terrorists have not committed overt crimes and can be tried only on a conspiracy theory that comes close to criminalizing group membership. In addition, the evidence against a particular detainee may be too difficult to present in open civilian court without compromising intelligence sources and methods….”32 Goldsmith and Katyal contend that such a special court would be comparable to bankruptcy or tax courts.

One significant difference from regular federal courts, however, is that a National Security

Court would permit evidence obtained without Miranda warnings (similar to the European Union

idea of a “letter of rights”), by hearsay, and other means normally inadmissible in federal courts.

Goldsmith and Katyal offer that “the standards of proof for evidence collected in Afghanistan

might not meet every jot and tittle of American criminal law.” It is unclear why the objectivity

of criteria for judging veracity ought to be relaxed when the evidence is collected in Afghanistan.

This approach suggests that a National Security Court would have adequate means by which to judge not the actions of detainees, as with regular courts, but the risk of detainees engaging in harmful actions, even absent evidence. Such an approach appears to deny the notion of due process. It is also difficult to see how this approach would not generate the problem it ostensibly seeks to prevent; that is, the creation of enemies through detention policy. A 2008 document signed by 27 legal scholars opposes “any effort to extend the status quo by establishing either (1) a comprehensive system of long-term “preventive” detention without trial for suspected terrorists, or (2) a specialized national security court to make “preventive” detention determinations and ultimately to try terrorism suspects….” For the basic reason that, despite “dressed up procedures, these proposals would make some of the most notorious aspects of the current failed system permanent.” The authors add that perhaps “most fundamental is the fact that the supporters of these proposals typically fail to make clear who should be detained, much less how such individuals, once designated, can prove they are no longer a threat. Without a reasonably precise definition, not only is arbitrary and indefinite detention possible, it is nearly inevitable.”33 Some of the authors, however, conclude that evidence on the part of the government that a detainee has “engaged in belligerent acts or has directly participated in hostilities against the United States” may be the exceptional case justifying “continued detention.”34 Again, however, this distinction remains fluid enough as to be an arbitrary judgment by government officials.

#### The appearance of unfairness turns the entire aff

**Shulman, 9 –** professor of law at Pace University School of LawPace University School of Law (Mark, “National Security Courts: Star Chamber or Specialized Justice?”, ILSA Journal of Int’l & Comparative Law [Vol. 15:2, 1/1)

The seventh and most complicated set of issues arises out of the complex relationship between the Bush Administration’s detention policies and actual national security. The Bush Administration consistently claimed that its policies were correctly designed and properly implemented in order to ensure security. Those detained were the worst of the worst, and their detention was both essential and effective. Conditions were appropriate. Methods of interrogation were both lawful and necessary. Any exceptions were aberrations attributable to a few bad apples. On the other hand, critics argued that the detentions and interrogations were in great part unlawful and that they undermined national security by inflaming tensions and alienating the United States in the world court of public opinion. Most experts who are not currently serving in the Bush Administration conclude that torture does not produce useful information. And while the federal courts have resolved many of the legal questions35 (at least for now), the security question may ultimately prove impossible to resolve. Justice Stewart’s view that public opinion plays a critical role in assessing the legality of national security measures36 can be extended to drawing conclusions about their effectiveness. Indeed, their effectiveness reinforces assessments of their legitimacy. However, Justice Stewart’s concurrence addressed the relatively specific question of prior censorship and writing in 1971; he could not reasonably take into account only the opinion of the American public.37 Today, the United States depends on global good will that in turn rests on its reputation for fairness. To the extent the United States is viewed as responsible for torture and other serious insults inflicted at Abu Ghraib and Guantánamo, it is alienating people and possibly fostering terrorism.38 If this political/strategic conclusion is correct, then the question of whether to create national security courts should be approached with great caution. If they appear unfair—ad hoc, less lawful, discriminatory, or hypocritical— they may diminish America’s soft power.

#### Prefer our evidence –

#### a. “terrorism” is a slippery concept that the government has incentives to expand – the drug war connections prove

**Rittgers, 9** - an attorney and decorated former Army Special Forces officer who served three tours in Afghanistan and is now a legal policy analyst at the Cato Institute (David, “National Security Court: Reinventing the Wheel, Poorly”, 9/21,

<http://www.cato.org/publications/commentary/national-security-court-reinventing-wheel-poorly>

After all, with an increasingly connected world, the definition of “international terrorist” is an elastic term. Would someone have to have orders from abroad to be “international”? If so, then Jose Padilla, alleged “dirty bomb” plotter, certainly qualifies. What about two American citizens who traveled overseas to help suicide bombers planning to infiltrate Iraq and attack American troops? What about a native-born American citizen who met with like-minded extremists in Canada and sent surveillance videos of potential targets to a radical in London? Federal courts dealt with all of the above. No special court needed.

The transition to prosecuting drug charges in a national security court is no great leap either. We already have a federal narco-terrorism statute, a long-standing “war on drugs,” and a government ad campaign telling us that buying drugs supports terrorism financing.

#### b. the history of abuse in the US legal system and targeting of racial minorities proves expansion is very likely – links Article III courts to our racial profiling evidence – tygma – from the kritik

**Davis, 7 –** professor of law at the University of Toledo (Benjamin, “Against a US 'Terrorists' Court' “ JURIST, 7/12, <http://jurist.law.pitt.edu/forumy/2007/07/against-us-terrorist-court.php>

Might I suggest that a national security court is really another phrase for what is called in French un tribunal d’exception a term that is heavy with connotations of Star Chamber justice. One of the great things about state courts of general jurisdiction or federal courts of limited jurisdiction is that they are open to everyone and have to operate in the light of day. Adjustments have to be made and can be made for given cases. We might spend more money on more courts to allow us to have the sufficient number of judges around to do the hard work of their role – but I would hesitate to create such an exceptional court, with exceptional rules, and exceptional powers, that will overtime not be the exception.

Given the rarity of refusals of warrants in our experience with the FISA court that we have had over the past 6 year period, I am deeply concerned that a similar experience would happen with such a national security court.

Maybe Jack Goldsmith and Neal Katyal are just too young to remember the kind of horrendous domestic activities of the CIA and others pre-1973 as described only partially in the recent “Family Jewels” release. But I and many Americans are not. I can remember persons denied even the most basic right to travel through the denial of a passport to Richard Wright for the most spurious of reasons. Who would be a security risk? Would Rosa Parks? How about Ramsey Clark? How about Martin Luther King? How about Stokely Carmichael? How about Malcolm X? How about any person whoever stood up and protested the security state? I think it is incredibly naïve to think that such a national security court could be kept in a limited role.

I am not at all warmed by the appeal to American values, for we all know that is a dual edged sword. We have seen under the guise of American values efforts to maintain enshrine and enhance what could only be called domestic state terrorism against blacks in the South for so much of our history. We have seen a Senate that would not take up an anti-lynching law for so many years while people were lynched. We have seen waits of 40 years for persons to receive criminal prosecution of people who killed their brothers for expressing themselves during the civil rights movement, due to the unwillingness of state or federal prosecutors to do anything. In my lifetime, I have seen enough of the ebb and flow of American values on the issue of integration of blacks into society to understand that those values are not so stabilized and protective as such appeals would like to make us think.

So please kill this idea immediately. Do the hard work of fixing the security state in the ways it has run off the rails. That hard work will earn the respect and credibility. Not another improvisation or cosmetic window dressing – I and many Americans I suspect are fatigued by these legal games. And let the chips fall where they may.

### 2nc bioweapons

#### Biodefense is a deterrent—definitely prevents extinction

**Koblentz, bio-defense prof, 4**—Assistant Professor; Deputy Director, Biodefense Program, George Mason. Research Fellow with the Security Studies Program at the Massachusetts Institute of Technology. Member of the Scientist Working Group on Chemical and Biological Weapons at the Center for Arms Control and Non-Proliferation. Former visiting assistant professor in the Security Studies Program at Georgetown University. Doctoral candidate in Political Science, MIT (Gregory, Pathogens as Weapons, International Security 28.3, http://belfercenter.ksg.harvard.edu/files/koblentz.pdf, AG)

Defensive biological warfare includes measures to prevent, mitigate, and treat the effects of a biological weapon attack. Biological defenses include vaccines and other pharmaceuticals, early warning systems, and physical protection. Given the range of available agents, the agent-specific nature of most defenses, the time lag required to develop new vaccines, and the ease with which an attacker can achieve surprise, defending a large population against a significant number of threat agents is a daunting task that would require a huge investment. Biological weapons, however, are in some ways more vulnerable to countermeasures than high explosives, chemical weapons, or nuclear weapons. They are unique among weapon systems in that vaccines can protect soldiers and civilians before an actual attack.33 Although licensed vaccines are currently available for only two of the most dangerous biological warfare agents—B. anthracis and variola major—the U.S. Department of Defense and the National Institutes of Health are developing more than twelve new biodefense vaccines.34 Even though immunizing vulnerable populations against the full range of biological warfare threats is not feasible or desirable, the availability of sufficient stockpiles of appropriate vaccines is still valuable as a deterrent to potential attackers, as a defensive measure if warning of an attack is received, as a form of postexposure prophylaxis for anthrax and smallpox, and as a reassuring symbol of preparedness. Given the limitations of vaccines, defenses against biological weapons rely more on early detection of a biological attack and postexposure prophylaxis with antimicrobial drugs. The incubation period following infection with a pathogen, typically several days, provides a window of opportunity for the detection of a biological attack and the preparation of a response.35 Aerosol detection devices and public health surveillance systems can provide the early warning necessary to launch a medical intervention to mitigate the consequences of a biological attack. Although current systems do not yet offer rapid, accurate, and broad-spectrum detection and identification capabilities, new capabilities are under development.36 Administered promptly after infection or the onset of symptoms, antibiotics can significantly reduce the morbidity and mortality of most bacterial and rickettsial agents. In contrast, there are few effective medical treatments for viral infections. Quarantine and vaccination can reduce the impact of contagious diseases such as smallpox.37

### 2nc alt causes

#### Recent scandals terminally destroy soft power

**Migranyan 13** – the director of the Institute for Democracy and Cooperation in New York. He is also a professor at the Institute of International Relations in Moscow, a former member of the Public Chamber and a former member of the Russian Presidential Council (Andranik, July 5th, “Scandals Harm U.S. Soft Power” <http://nationalinterest.org/commentary/scandals-harm-us-soft-power-8695>) Jacome

For the past few months, the United States has been rocked by a series of scandals. It all started with the events in Benghazi, when Al Qaeda-affiliated terrorists attacked the General Consulate there and murdered four diplomats, including the U.S. ambassador to Libya. Then there was the scandal exposed when it was revealed that the Justice Department was monitoring the calls of the Associated Press. The Internal Revenue Service seems to have targeted certain political groups. Finally, there was the vast National Security Agency apparatus for monitoring online activity revealed by Edward Snowden. Together, these events provoke a number of questions about the path taken by contemporary Western societies, and especially the one taken by America.

Large and powerful institutions, especially those in the security sphere, have become unaccountable to the public, even to representatives of the people themselves. Have George Orwell’s cautionary tales of total government control over society been realized?

At the end of the 1960s and the beginning of the 1970s, my fellow students and I read Orwell’s 1984 and other dystopian stories and believed them to portray fascist Germany or the Soviet Union—two totalitarian regimes—but today it has become increasingly apparent that Orwell, Huxley and other dystopian authors had seen in their own countries (Britain and the United States) certain trends, especially as technological capabilities grew, that would ultimately allow governments to exert total control over their societies. The potential for this type of all-knowing regime is what Edward Snowden revealed, confirming the worst fears that the dystopias are already being realized.

On a practical geopolitical level, the spying scandals have seriously tarnished the reputation of the United States. They have circumscribed its ability to exert soft power; the same influence that made the U.S. model very attractive to the rest of the world. This former lustre is now diminished. The blatant everyday intrusions into the private lives of Americans, and violations of individual rights and liberties by runaway, unaccountable U.S. government agencies, have deprived the United States of its authority to dictate how others must live and what others must do. Washington can no longer lecture others when its very foundational institutions and values are being discredited—or at a minimum, when all is not well “in the state of Denmark.”

Perhaps precisely because not all is well, many American politicians seem unable to adequately address the current situation. Instead of asking what isn’t working in the government and how to ensure accountability and transparency in their institutions, they try, in their annoyance, to blame the messenger—as they are doing in Snowden’s case. Some Senators hurried to blame Russia and Ecuador for anti-American behavior, and threatened to punish them should they offer asylum to Snowden.

These threats could only cause confusion in sober minds, as every sovereign country retains the right to issue or deny asylum to whomever it pleases. In addition, the United States itself has a tradition of always offering political asylum to deserters of the secret services of other countries, especially in the case of the former Soviet Union and other ex-socialist countries. In those situations, the United States never gave any consideration to how those other countries might react—it considered the deserters sources of valuable information. As long as deserters have not had a criminal and murderous past, they can receive political asylum in any country that considers itself sovereign and can stand up to any pressure and blackmail.

Meanwhile, the hysteria of some politicians, if the State Department or other institutions of the executive branch join it, can only accelerate the process of Snowden’s asylum. For any country he might ask will only be more willing to demonstrate its own sovereignty and dignity by standing up to a bully that tries to dictate conditions to it. In our particular case, political pressure on Russia and President Putin could turn out to be utterly counterproductive. I believe that Washington has enough levelheaded people to understand that fact, and correctly advise the White House. The administration will need sound advice, as many people in Congress fail to understand the consequences of their calls for punishment of sovereign countries or foreign political leaders that don’t dance to Washington’s tune.

Judging by the latest exchange between Moscow and Washington, it appears that the executive branches of both countries will find adequate solutions to the Snowden situation without attacks on each other’s dignity and self-esteem. Russia and the United States are both Security Council members, and much hinges on their decisions, including a slew of common problems that make cooperation necessary.

Yet the recent series of scandals has caused irreparable damage to the image and soft power of the United States. I do not know how soon this damage can be repaired. But gone are the days when Orwell was seen as a relic of the Cold War, as the all-powerful Leviathan of the security services has run away from all accountability to state and society. Today the world is looking at America—and its model for governance—with a more critical eye.

#### Alt cause – Bagram triggers the whole aff

**Knefel, 13** (John, “Bagram: The Other Guantanamo,” Rolling Stone, 7/23/13, http://www.rollingstone.com/politics/news/bagram-the-other-guantanamo-20130723#ixzz2eql9HdL3 //Red)

Though the detainees at Bagram aren't mentioned often in the U.S., Chris Rogers, who focuses on conflict-related detention at the Open Society Foundations, says that the prison remains a **problem for America's image** in the Middle East. "For Afghans, Pakistanis and many others around the world, **Bagram is a symbol of hypocrisy and injustice**," says Rogers. "Ending the war in Afghanistan, and closing the chapter of war-on-terror detention that both Guantanamo and Bagram have come to symbolize, means the U.S. has to resolve detainees' cases and end their legal limbo." In March, the U.S. military transferred the majority of control of the prison at Bagram, which it calls the Detention Facility in Parwan, to the Afghan government. The transfer was scheduled to happen months earlier, but tensions between the two countries – including U.S. fears that Afghanistan would release prisoners the U.S. wants held – delayed the turnover. The U.S. is scheduled to remove significant numbers of troops from Afghanistan by December 2014, but how many remains undecided. Pentagon spokesperson Todd Breasseale says in an email that the third country nationals held by the U.S. "at the small part of Parwan that we still use are all [Law of War] detainees" – the same authority that applies to nearly every detainee at Guantanamo. (There are currently 166 detainees held at Guantanamo, 86 of whom have been deemed transferrable because they are not threats to U.S. national security.) That legal rationale allows the U.S. to hold prisoners until the end of hostilities in the war against al Qaeda, which Pentagon officials have suggested could last as much as another 20 years. It remains unclear what the future holds for the prison at Bagram, though Belhadi, the attorney in Pakistan, is not optimistic. "Our impression is that Bagram **will remain open** even after U.S. combat operations cease in December 2014," he says. The way forward for his individual clients and the rest of the detainees is also unclear. There is a significant danger that they could be tortured if they are turned over to the Afghans, and Belhadi says the Afghans don't want them anyway: "They're aware of the diplomatic hurdles involved in repatriation and want no part in it." Rogers, at Open Society, says the U.S. knows "the clock is ticking" in these cases, and that "as the U.S. withdraws its forces and ends its combat mission in Afghanistan, it will not have the same legal basis to capture and detain individuals." How does the U.S. military see the impending drawdown in Afghanistan affecting its legal authority to hold detainees? When asked if Bagram will stay open past December 2014, Breasseale, the Pentagon spokesperson, says detainees will continue to be held "through to when final disposition is decided," but that the U.S. "maintains that it shall not give up the humane – and ultimately reversible – option of removing enemy combatants from the battlefield." As of now, Belhadi says six detainees – three of whom are his clients – are scheduled to be repatriated to Pakistan in September of this year, due in part to litigation his firm has brought before the Lahore High Court. Whether U.S. courts have jurisdiction to order detainees released from Bagram remains partially unsettled, though the outlook for the detainees doesn't look good. Following the U.S. Supreme Court's 2008 ruling in Boumediene v. Bush, which extended habeas corpus rights to detainees held at Guantanamo, lawyers for Bagram detainees sought to have those rights applied to their clients. After an initial win, the case – known as al-Maqaleh v. Gates – was overturned on appeal, heard again unsuccessfully with additional evidence in district court, and is currently on its second round of appeals. Amin Al-Bakri, a Yemeni held by the U.S. without charge since 2002 and one of three petitioners in the al-Maqaleh case, "was tortured and coercively interrogated in CIA custody at undisclosed 'black site' locations," according to Golnaz Fakhimi, a lawyer with CUNY law school who represents al-Bakri. She adds that her client has been cleared for release three separate times. "The indefinite detention of Amin and other rendered non-Afghans at Bagram contrasts starkly with President Obama's renewed promise to close Guantánamo," says Fakhimi. "The contrast reveals that his promise to close Guantanamo is not necessarily a promise to end the practice of indefinite detention that makes Guantanamo so problematic." Rogers is even more blunt in his characterization. "Right now," he says, "**Bagram is another Guantanamo Bay that you've heard less about.**"

### 2nc heg

#### No transition wars and heg isn’t key

Fordham 12—professor of political science at Binghamton University (Ben, International Economic Institutions and Great Power Peace, 8/12/12, http://gt2030.com/2012/08/15/international-economic-institutions-and-great-power-peace/)

I enjoyed Jack Levy’s comments on how the world would have looked to people writing in 1912. As part of my current research, I’ve been spending a lot of time thinking about the three decades before World War I. As Levy pointed out, this last period of great power peace has some interesting parallels with the present one. Like today, the international economy had become increasingly integrated. For good reason, some even refer to this period as the “first age of globalization.” The period also saw the emergence of several new great powers, including Japan, Germany, and the United States. Like emerging powers today, each of these states sought to carve out its own world role and to find, as the German Foreign Secretary put it, a “place in the sun.” Like Levy, I don’t think these parallels we are doomed to repeat the catastrophe of 1914. I want to highlight the different institutional rules governing the international economic system today. The dangers discussed in the NIC report are real, but there is reason for hope when it comes to avoiding great power war. The rules of the game governing the “first age of globalization” encouraged great powers to pursue foreign policies that made political and military conflict more likely. Declining transportation costs, not more liberal trade policies, drove economic integration. There was no web of international agreements discouraging states from pursuing protectionist trade policies. As Patrick McDonald‘s recent book, The Invisible Hand of Peace, explains nicely, protectionism went hand-in-hand with aggressive foreign policies. Many of the great powers, including the emerging United States, sought to shut foreign competitors out of their home markets even as they sought to expand their own overseas trade and investment. Even though markets and investment opportunities in less developed areas of the world were small, great power policy makers found these areas attractive because they would not export manufactured products. As one American policy maker put it in 1899, they preferred “trade with people who can send you things you ant and cannot produce, and take from you in return things they want and cannot produce; in other words, a trade largely between different zones, and largely with less advanced peoples….” Great powers scrambled to obtain privileged access to these areas through formal or informal imperial control. This zero-sum competition added a political and military component to economic rivalry. Increasing globalization made this dangerous situation worse, not better, in spite of the fact that it also increased the likely cost of a great power war. In large part because of the international economic institutions constructed after World War II, present day great powers do not face a world in which protectionism and political efforts to secure exclusive market access are the norm. Emerging as well as longstanding powers can now obtain greater benefits from peaceful participation

in the international economic system than they could through the predatory foreign policies that were common in the late 19th and early 20th centuries. They do not need a large military force to secure their place in the sun. Economic competition among the great powers continues, but it is not tied to imperialism and military rivalry in the way it was in 1914. These international institutional differences are probably more important for continuing great power peace than is the military dominance of the United States. American military supremacy reduces uncertainty about the cost and outcome of a hegemonic war, making such a war less likely. However, as in the 19th Century, higher growth rates in emerging powers strongly suggest that the current American military edge will not last forever. Efforts to sustain it will be self-defeating if they threaten these emerging powers and set off a spiral of military competition. Similarly, major uses of American military power without the support (or at least the consent) of other great powers also risk leading these states to build up their military capabilities in order to limit American freedom of action. The United States will be better served by policies that enhance the benefits that emerging powers like China receive from upholding the status quo.

Hegemony isn’t key anymore. Rivalry

#### Hegemony isn’t key anymore. Rivalry, stability, and deterrence claims are all false

**Friedman 10**—research fellow in defense and homeland security, Cato. PhD candidate in pol sci, MIT (Ben, Military Restraint and Defense Savings, 20 July 2010, http://www.cato.org/testimony/ct-bf-07202010.html)

Another argument for high military spending is that U.S. military hegemony underlies global stability. Our forces and alliance commitments dampen conflict between potential rivals like China and Japan, we are told, preventing them from fighting wars that would disrupt trade and cost us more than the military spending that would have prevented war. The theoretical and empirical foundation for this claim is weak. It overestimates both the American military's contribution to international stability and the danger that instability abroad poses to Americans. In Western Europe, U.S. forces now contribute little to peace, at best making the tiny odds of war among states there slightly more so.7 Even in Asia, where there is more tension, the history of international relations suggests that without U.S. military deployments potential rivals, especially those separated by sea like Japan and China, will generally achieve a stable balance of power rather than fight. In other cases, as with our bases in Saudi Arabia between the Iraq wars, U.S. forces probably create more unrest than they prevent. Our force deployments can also generate instability by prompting states to develop nuclear weapons. Even when wars occur, their economic impact is likely to be limited here.8 By linking markets, globalization provides supply alternatives for the goods we consume, including oil. If political upheaval disrupts supply in one location, suppliers elsewhere will take our orders. Prices may increase, but markets adjust. That makes American consumers less dependent on any particular supply source, undermining the claim that we need to use force to prevent unrest in supplier nations or secure trade routes.9 Part of the confusion about the value of hegemony comes from misunderstanding the Cold War. People tend to assume, falsely, that our activist foreign policy, with troops forward supporting allies, not only caused the Soviet Union's collapse but is obviously a good thing even without such a rival. Forgotten is the sensible notion that alliances are a necessary evil occasionally tolerated to balance a particularly threatening enemy. The main justification for creating our Cold War alliances was the fear that Communist nations could conquer or capture by insurrection the industrial centers in Western Europe and Japan and then harness enough of that wealth to threaten us — either directly or by forcing us to become a garrison state at ruinous cost. We kept troops in South Korea after 1953 for fear that the North would otherwise overrun it. But these alliances outlasted the conditions that caused them. During the Cold War, Japan, Western Europe and South Korea grew wealthy enough to defend themselves. We should let them. These alliances heighten our force requirements and threaten to drag us into wars, while providing no obvious benefit.

### 2nc heg k

#### Heg creates inequality – caused over population, environmental degradation and makes extinction inevitable – try/die for the alternative

**Willson, 99** [Brian – Ph.D New College San Fransisco, Humanities, JD, American University, “Assimilation or Elimination: Pax Americana--Buy In or Check Out”] <  [http://www.brianwillson.com/?q=node/7](http://www.brianwillson.com/?q=node/18)>

The white man's burden of winning the West has now turned into winning the world--seeking a global, homogenous culture of imposed materialism. The U.S. possesses but 4.5% of the world's population but absolutely insists on a way of life ("national security") that collectively consumes nearly half of the world's resources while producing similar percentages of corresponding pollution. And when all the "First World" (and former "Second World"/Socialist) populations are included, 25% of the world's population consumes approximately 85% of the world's resources. This leaves 75% of the world's people in the "Third World" (4.5 billion) squeezed with but 15% of the resources. This is truly the Mother of all structural problems and spiritual challenges. Without comprehensively addressing and correcting this disparity, our species (and many other species) has absolutely no hope for survival; in fact, **our extinction is assured**. Western appetites, coming almost as a birthright without any thought, absolutely require political-economic policies that assure continued theft and exploitation around the world. This is the fifth and only freedom that the U.S. seriously defends and fights for. Such rapaciousness has been rationalized to allow us as a people to feel okay about our brand of intervention. We are always told that U.S. foreign intervention is necessary in order to promote "manifest destiny," to preserve the "Monroe Doctrine," to fight evil "Communism," or, more recently, to combat "narcotrafficking" and "narco-guerrillas," and "terrorism." To the uninformed these pretexts sound so good, so noble. But as many of us know from experience, the results are repression, unjust and inhumane practices, often times invisible ("low intensity warfare"), and, discovered or not, so horrific as to be almost beyond the comprehension of most citizens. Meanwhile, protection of the interests of corporations and a wealthy elite by United States government policies continues unchecked. Sadly, these practices and policies are absolutely inevitable unless the fundamental ethos of the U.S. culture undergoes a profound reexamination and radical transformation. In U.S. empire's wake, everybody and everything has become an endangered species. Assimilate into the religion of consumption or be eliminated for being in the way.

### 2nc heg – at: cling to power

#### No U.S. lashout

**Parent 11**—Assistant Professor of Political Science at the University of Miami—AND—Paul K. MacDonald, Assistant Professor of Political Science at Williams College (Joseph M., Spring 2011, *International Security*, Vol. 35, No. 4, http://www.mitpressjournals.org/doi/pdf/10.1162/ISEC\_a\_00034, RBatra)

With regard to militarized disputes, declining great powers demonstrate more caution and restraint in the use of force: they were involved in an average of 1.7 fewer militarized disputes in the five years following ordinal change compared with other great powers over similar periods.67 Declining great powers also initiated fewer militarized disputes, and their disputes tended to escalate to lower levels of hostility than the baseline category (see figure 2).68 These findings suggest the need for a fundamental revision to the pessimist’s argument regarding the war proneness of declining powers.69 Far from being more likely to lash out aggressively, declining states refrain from initiating and **escalating military disputes**. Nor do declining great powers appear more vulnerable to external predation than other great powers. This may be because external predators have great difficulty assessing the vulnerability of potential victims, or because retrenchment allows vulnerable powers to effectively recover from decline and **still deter potential challengers.**

### 2nc warming

#### International community won’t act – means warming becomes inevitable

**Mckibben 10** – Foreign Policy writer, author, environmentalist, and activist. In 1988, he wrote The End of Nature, the first book for a common audience about global warming. (Bill, 11-22, “Sipping Margaritas While the Climate Burns” http://www.foreignpolicy.com/articles/2010/11/22/sipping\_margaritas\_while\_the\_climate\_burns?page=0,1) Jacome

In fact, I suspect it will be mostly holding pattern and very little landing in Mexico this December. The fundamental problem that has always dogged these talks -- a rich north that won't give up its fossil-fuel addiction, a poor south that can't give up its hope of fossil-fueled development -- has, if anything, gotten worse, mostly because the north has decided to think of itself as poor, too or at least not able to devote resources to changing our climate course.

It is possible -- indeed it has been possible from the start -- that this essential gulf will prevent action to slow greenhouse gas emissions at the pace that physics and chemistry demand before it's too late to reverse or contain the impacts of climate change. There's really only one way to build a bridge across the divide, and that's with big stacks of money. Theoretically, the rich countries pledged at Copenhagen that they would pony up $30 billion in "fast-start" financing to help poor countries get going on building renewable energy. And at last scrupulous count, according to the World Resources Institute, there's actually $28.34 billion on the table, more than half of it coming from Japan. Unfortunately, much of it isn't "new and additional" -- instead it's repurposed money from other development grants. None of that increases anyone's confidence in the $100 billion a year that U.S. Secretary of State Hillary Clinton projected in Copenhagen would be available by 2020 -- especially because the only news that has emerged this year as to its source is that it won't be coming from "public funds."

#### And emissions reductions are key – or else no one will follow

**Mckibben 10** – Foreign Policy writer, author, environmentalist, and activist. In 1988, he wrote The End of Nature, the first book for a common audience about global warming. (Bill, 11-22, “Sipping Margaritas While the Climate Burns” http://www.foreignpolicy.com/articles/2010/11/22/sipping\_margaritas\_while\_the\_climate\_burns?page=0,1) Jacome

At Cancún, the demand from the United States and others will be transparency for access to that "fast-start" cash -- if you want financing, then you have to provide measurable, verifiable reductions in emissions. The south is desperate enough to keep the talks on track that there probably will be at least some advances on related questions of reporting, monitoring, and verification, and there might be real progress on deforestation, too. The main diplomatic effort will center on keeping the process somehow limping forward toward next year's conclave in South Africa -- everyone keeps hoping that if that happens some new opening will emerge. But if the summer of 2010 -- 19 countries setting new heat records, Russia on fire, Pakistan underwater -- didn't rattle leaders, it's not quite clear what will.

Meanwhile, recall the Copenhagen Accord, the face-saving compromise that allowed Obama in particular to frame last year's meeting as something slightly better than a complete failure. It called on countries to set voluntary carbon targets, and report on how they were doing -- a kind of AA model for international efforts in which no one commits to anything, but at least you have to stand up in a meeting and report how you're doing. The problem is, no one is standing up and pledging to go sober. At last count, if you totaled all the commitments associated with the Copenhagen Accord from all the different countries and then assume they'll actually stick to their word, the amount of carbon in the atmosphere will still more than double, and the Earth's temperature will soar way past anyone's definition of safe. As Tom Athanasiou, the relentless campaigner who runs the Greenhouse Development Rights Network, said recently: The pledge and review process is a "collective suicide" pact.

### 1nr kritik

AHD 06. American Heritage Dictionary

resolved v. To cause (a person) to reach a decision.

#### The role of the ballot is the choice of Edward Snowden—will your ballot imply complacency or using your situated position to build a network of popular insurrection?

Connolly 13. William Connolly, Krieger-Eisenhower professor of political science at Johns Hopkins, “‘The East’ and Corporate Terrorism,” The Contemporary Condition, July 7, 2013 <http://contemporarycondition.blogspot.com/2013/07/the-east-and-corporate-terrorism.html>, accessed September 4, 2013

Eventually Sarah develops a strategy of public expose and activism that draws some sustenance from her two identities and resists the traps each sets for her. I will let that part unfold when you watch the film. Is it enough?  Probably not. Could more of us participate in such acts to augment the potential they hold? Yes, we could. Many of us are what Michel Foucault called “specific intellectuals”, people with special knowledges and skills because of the work we do in law firms, medical practices, college teaching, blog writing, pharmaceutical companies, intelligence agencies, the media, school boards, churches, geological research, corporate regulatory agencies, and so on, endlessly. Each of us has specific modes of strategic information and critical skill linked to our role assignments. We can expose horrendous practices, as Snowden has done recently. We can also support others who do so as we seek to build a critical assemblage of public insurrection together.

#### Focus on top down executive regulation solutions reinforces a notion of sovereignty that is unitary that marginalizes alternative political formations—choose the model of Edward Snowden rather than the congressional representative

Buell 13. John Buell, columnist for The Progressive Populist, adjunct professor at Cochise College, “Nationalism, Tech Giants, and Spy States,” The Contemporary Condition August 10, 2013 <http://contemporarycondition.blogspot.com/2013/08/nationalism-tech-giants-and-spy-states.html> accessed September 4, 2013

That's is one reason it is hard today to remain aloof from politics. But for those who seek to do so the message is just as clear. If the Internet has progressive possibilities, their realization will not be automatic. Today a countersubversive culture nurtures and is nurtured by an evolving alliance of high tech giants, government bureaucrats (whom Smith calls securecrats), the older more established military industrial complex and powerful private corporations that benefit from close ties to the state, including especially the oil  and investment banking community.

If the most repressive outcomes are to be avoided, the best course might be an evolving counter-coalition that would emerge from moral and historical critiques of and alternative to the countersubversive tradition. In Emergency Politics, Honig argues that the very focus on the question of the rules that should govern declarations of emergency and the protections that can be revoked in emergencies reinforce a notion of sovereignty as unitary and top down. Thus they "marginalize forms of popular sovereignty in which action in concert rather than institutional governance is the mark of democratic power and legitimacy." Unitary and decisive sovereignty committed to its own invulnerability is "most likely to perceive crisis where there may only be political conflict and to respond...with antipolitical measures."

The best answer lies not merely in challenging the constitutional status of this surveillance state but in building a political coalition that embodies the forms of popular sovereignty of which Honig speaks. This would include labor, consumer and environmentalist critiques of and alternatives to the role of the state and markets in fostering inequality. It would be attentive to the possibilities and risks of the social media and the limits of its own interventions in these.  The coalition might advance more democratic forms of enterprise and media as well as decentralized and more sustainable forms of energy production and transportation.  And in an era where hyper nationalism erodes so many democratic impulses, cross border initiatives in the interest of widespread access to an open Internet with robust privacy protections would be paramount. (Let's hope that) Edward Snowden's travels (in a world dominated by the state passport and surveillance system) helps to highlight the stake citizens of many lands have in a democratic Internet but a more exploratory and democratic polity.

#### Judge this debate as a new attorney, seeking to enter into a study of the established meanings of laws that determine all interpretations—prerequisite to creating scholars who can challenge things like US unilateralism

Agamben 05. Giorgio Agamben, famous philosopher, The State of Exception, pg. 63

In the Kafka essay, the enigmatic image of a law that is studied but no longer practiced corresponds, as a sort of remnant, to the unmasking of mythico-juridical violence effected by pure violence. There is, therefore, still a possible figure of law after its nexus with violence and power has been deposed, but it is a law that no longer has force or application, like the one in which the “new attorney,” leafing through “our old books,” buries himself in study, or like the one that Foucault may have had in mind when he spoke of a “new law” that has been freed from all disci- pline and all relation to sovereignty.

What can be the meaning of a law that survives its deposition in such a way? The difficulty Benjamin faces here corresponds to a problem that can be formulated (and it was effectively formulated for the first time in primitive Christianity and then later in the Marxian tradition) in these terms: What becomes of the law after its messianic fulfillment? (This is the controversy that opposes Paul to the Jews of his time.) And what becomes of the law in a society without classes? (This is precisely the de- bate between Vyshinsky and Pashukanis.) These are the questions that Benjamin seeks to answer with his reading of the “new attorney.” Obvi- ously, it is not a question here of a transitional phase that never achieves its end, nor of a process of infinite deconstruction that, in maintain- ing the law in a spectral life, can no longer get to the bottom of it. The decisive point here is that the law—no longer practiced, but studied— is not justice, but only the gate that leads to it. What opens a passage toward justice is not the erasure of law, but its deactivation and inactivity [inoperosità]—that is, another use of the law. This is precisely what the force-of-law (whichkeepsthelawworking[inopera]beyonditsformal suspension) seeks to prevent. Kafka’s characters—and this is why they interest us—have to do with this spectral figure of the law in the state of exception; they seek, each one following his or her own strategy, to “study” and deactivate it, to “play” with it.

One day humanity will play with law just as children play with dis- used objects, not in order to restore them to their canonical use but to free them from it for good. What is found after the law is not a more proper and original use value that precedes the law, but a new use that is born only after it. And use, which has been contaminated by law, must also be freed from its own value. This liberation is the task of study, or of play. And this studious play is the passage that allows us to arrive at that justice that one of Benjamin’s posthumous fragments defines as a state of the world in which the world appears as a good that absolutely cannot be appropriated or made juridical (Benjamin 1992, 41).

#### Reject their legal framework for solving the problem of indefinite detention in favor of investing in a more expansive definition of political community—legal accountability is too soon and will fail without an interrogation of what life can be excluded from definitions of legally human

Butler 4—not Judy

(Judith, *Precarious Life* pg 86-92, dml)

So, these prisoners, who are not prisoners, will be tried, if they will be tried, according to rules that are not those of a constitutionally defined US law nor of any recognizable international code. Under the Geneva Convention, the prisoners would be entitled to trials under the same procedures as US soldiers, through court martial or civilian courts, and not through military tribunals as the Bush administration has proposed. The current regulations for military tribunals provide for the death penalty if all members of the tribunal agree to it. The President, however, will be able to decide on that punishment unilaterally in the course of the final stage of deliberations in which an executive judgment is made and closes the case. Is there a timeframe set forth in which this particular judicial operation will cease to be? In response to a reporter who asked whether the government was not creating procedures that would be in place indefinitely, "as an ongoing additional judicial system created by the executive branch," General Counsel Haynes pointed out that the "the rules [for the tribunals] ... do not have a sunset provision in them ... I'd only observe that the war, we think, will last for a while." One might conclude with a strong argument that government policy ought to follow established law. And in a way, that is part of what I am calling for. But there is also a problem with the law, since it leaves open the possibility of its own retraction, and, in the case of the Geneva Convention, extends "universal" rights only to those imprisoned combatants who belong to "recognizable" nation-states, but not to all people. Recognizable nation-states are those that are already signatories to the convention itself. This means that stateless peoples or those who belong to states that are emergent or "rogue" or generally unrecognized lack all protections. The Geneva Convention is, in part, a civilizational discourse, and it nowhere asserts an entitlement to protection against degradation and violence and rights to a fair trial as universal rights. Other international covenants surely do, and many human rights organizations have argued that the Geneva Convention can and ought to be read to apply universally. The International Committee of the Red Cross made this point publicly (February 8, 2002). Kenneth Roth, Director of Human Rights Watch, has argued strongly that such rights do pertain to the Guantanamo Prisoners (January 28, 2002), and the Amnesty International Memorandum to the US Government (April 15, 2002), makes clear that fifty years of international law has built up the assumption of universality, codified clearly in Article 9(4) of the International Covenant on Civil and Political Rights, ratified by the US in 1992. Similar statements have been made by the International Commission on Jurists (February 7, 2002) and the Organization for American States human rights panel made the same claim (March 13, 2002), seconded by the Center for Constitutional Rights (June ro, 2002). Exclusive recourse to the Geneva Convention, itself drafted in 1949, as the document for guidance in this area is thus in itself problematic. The notion of "universality" embedded in that document is restrictive in its reach: it counts as subjects worthy of protection only those who belong already to nation-states recognizable within its terms. In this way, then, the Geneva Convention is in the business of establishing and applying a selective criterion to the question of who merits protection under its provisions, and who does not. The Geneva Convention assumes that certain prisoners may not be protected by its statute. By clearly privileging those prisoners from wars between recognizable states, it leaves the stateless unprotected, and it leaves those from nonrecognized polities without recourse to its entitlements. Indeed, to the extent that the Geneva Convention gives grounds for a distinction between legal and illegal combatants, it distinguishes between legitimate and illegitimate violence. Legitimate violence is waged by recognizable states or "countries," as Rumsfeld puts it, and illegitimate violence is precisely that which is committed by those who are landless, stateless, or whose states are deemed not worth recognizing by those who are already recognized. In the present climate, we see the intensification of this formulation as various forms of political violence are called "terrorism," not because there are valences of violence that might be distinguished from one another, but as a way of characterizing violence waged by, or in the name of, authorities deemed illegitimate by established states. As a result, we have the sweeping dismissal of the Palestinian Intifada as "terrorism" by Ariel Sharon, whose use of state violence to destroy homes and lives is surely extreme. The use of the term, "terrorism," thus works to delegitimate certain forms of violence committed by non-state-centered political entities at the same time that it sanctions a violent response by established states. Obviously, this has been a tactic for a long time as colonial states have sought to manage and contain the Palestinians and the Irish Catholics, and it was also a case made against the African National Congress in apartheid South Africa. The new form that this kind of argument is taking, and the naturalized status it assumes, however, will only intensify the enormously damaging consequences for the struggle for Palestinian self-determination. Israel takes advantage of this formulation by holding itself accountable to no law at the very same time that it understands itself as engaged in legitimate self-defense by virtue of the status of its actions as state violence. In this sense, the framework for conceptualizing global violence is such that "terrorism" becomes the name to describe the violence of the illegitimate, whereas legal war becomes the prerogative of those who can assume international recognition as legitimate states. The fact that these prisoners are seen as pure vessels of violence, as Rumsfeld claimed, suggests that they do not become violent for the same kinds of reason that other politicized beings do, that their violence is somehow constitutive, groundless, and infinite, if not innate. If this violence is terrorism rather than violence, it is conceived as an action with no political goal, or cannot be read politically. It emerges, as they say, from fanatics, extremists, who do not espouse a point of view, but rather exist outside of "reason," and do not have a part in the human community. That it is Islamic extremism or terrorism simply means that the dehumanization that Orientalism already performs is heightened to an extreme, so that the uniqueness and exceptionalism of this kind of war makes it exempt from the presumptions and protections of universality and civilization. When the very human status of those who are imprisoned is called into question, it is a sign that we have made use of a certain parochial frame for understanding the human, and failed to expand our conception of human rights to include those whose values may well test the limits of our own. The figure of Islamic extremism is a very reductive one at this point in time, betraying an extreme ignorance about the various social and political forms that Islam takes, the tensions, for instance, between Sunni and Shiite Muslims, as well as the wide range of religious practices that have few, if any, political implications such as the da'wa practices of the mosque movement, or whose political implications are pacifist. If we assume that everyone who is human goes to war like us, and that this is part of what makes them recognizably human, or that the violence we commit is violence that falls within the realm of the recognizably human, but the violence that others commit is unrecognizable as human activity, then we make use of a limited and limiting cultural frame to understand what it is to be human. This is no reason to dismiss the term "human," but only a reason to ask how it works, what it forecloses, and what it sometimes opens up. To be human implies many things, one of which is that we are the kinds of beings who must live in a world where clashes of value do and will occur, and that these clashes are a sign of what a human community is. How we handle those conflicts will also be a sign of our humanness, one that is, importantly, in the making. Whether or not we continue to enforce a universal conception of human rights at moments of outrage and incomprehension, precisely when we think that others have taken themselves out of the human community as we know it, is a test of our very humanity. We make a mistake, therefore, if we take a single definition of the human, or a single model of rationality, to be the defining feature of the human, and then extrapolate from that established understanding of the human to all of its various cultural forms. That direction will lead us to wonder whether some humans who do not exemplify reason and violence in the way defined by our definition are still human, or whether they are "exceptional" (Haynes) or "unique" (Hastert), or "really bad people" (Cheney) presenting us with a limit case of the human, one in relation to which we have so far failed. To come up against what functions, for some, as a limit case of the human is a challenge to rethink the human. And the task to rethink the human is part of the democratic trajectory of an evolving human rights jurisprudence. It should not be surprising to find that there are racial and ethnic frames by which the recognizably human is currently constituted. One critical operation of any democratic culture is to contest these frames, to allow a set of dissonant and overlapping frames to come into view, to take up the challenges of cultural translation, especially those that emerge when we find ourselves living in proximity with those whose beliefs and values challenge our own at very fundamental levels. More crucially, it is not that "we" have a common idea of what is human, for Americans are constituted by many traditions, including Islam in various forms, so any radically democratic self-understanding will have to come to terms with the heterogeneity of human values. This is not a relativism that undermines universal claims; it is the condition by which a concrete and expansive conception of the human will be articulated, the way in which parochial and implicitly racially and religiously bound conceptions of human will be made to yield to a wider conception of how we consider who we are as a global community. We do not yet understand all these ways, and in this sense human rights law has yet to understand the full meaning of the human. It is, we might say, an ongoing task of human rights to reconceive the human when it finds that its putative universality does not have universal reach. The question of who will be treated humanely presupposes that we have first settled the question of who does and does not count as a human. And this is where the debate about Western civilization and Islam is not merely or only an academic debate, a misbegotten pursuit of Orientalism by the likes of Bernard Lewis and Samuel Huntington who regularly produce monolithic accounts of the "East," contrasting the values of Islam with the values of Western "civilization." In this sense, "civilization" is a term that works against an expansive conception of the human, one that has no place in an internationalism that takes the universality of rights seriously. The term and the practice of "civilization" work to produce the human differentially by offering a culturally limited norm for what the human is supposed to be. It is not just that some humans are treated as humans, and others are dehumanized; it is rather that dehumanization becomes the condition for the production of the human to the extent that a "Western" civilization defines itself over and against a population understood as, by definition, illegitimate, if not dubiously human. A spurious notion of civilization provides the measure by which the human is defined at the same time that a field of would-be humans, the spectrally human, the deconstituted, are maintained and detained, made to live and die within that extra-human and extrajuridical sphere of life. It is not just the inhumane treatment of the Guantanamo prisoners that attests to this field of beings apprehended, politically, as unworthy of basic human entitlements. It is also found in some of the legal frameworks through which we might seek accountability for such inhuman treatment, such that the brutality is continued-revised and displaced-in, for instance, the extra-legal procedural antidote to the crime. We see the operation of a capricious proceduralism outside of law, and the production of the prison as a site for the intensification of managerial tactics untethered to law, and bearing no relation to trial, to punishment, or to the rights of prisoners. We see, in fact, an effort to produce a secondary judicial system and a sphere of non-legal detention that effectively produces the prison itself as an extra-legal sphere maintained by the extrajudicial power of the state. This new configuration of power requires a new theoretical framework or, at least, a revision of the models for thinking power that we already have at our disposal. The fact of extra-legal power is not new, but the mechanism by which it achieves its goals under present circumstances is singular. Indeed, it may be that this singularity consists in the way the "present circumstance" is transformed into a reality indefinitely extended into the future, controlling not only the lives of prisoners and the fate of constitutional and international law, but also the very ways in which the future may or may not be thought.

#### The only ethical position is to refuse the sovereign fiction of lines between inside and outside—it prefigures util because it prefigures their ability to know the world

Edkins and Pin-Fat 05. Jenny Edkins, professor of international politics at Prifysgol Aberystwyth University (in Wales) and Veronique Pin-Fat, senior lecturer in politics at Manchester Universit, “Through the Wire: Relations of Power and Relations of Violence,” Millennium - Journal of International Studies 2005 34: pg. 14

One potential form of challenge to sovereign power consists of a refusal to draw any lines between zoe- and bios, inside and outside**.**59 As we have shown, sovereign power does not involve a power relation in Foucauldian terms. It is more appropriately considered to have become a form of governance or technique of administration through relationships of violence that reduce political subjects to mere bare or naked life. In asking for a refusal to draw lines as a possibility of challenge, then, we are not asking for the elimination of power relations and consequently, we are not asking for the erasure of the possibility of a mode of political being that is empowered and empowering, is free and that speaks: quite the opposite. Following Agamben, we are suggesting that it is only through a refusal to draw any lines at all between forms of life (and indeed, nothing less will do) that sovereign power as a form of violence can be contested and a properly political power relation (a life of power as potenza) reinstated. We could call this challenging the logic of sovereign power through refusal. Our argument is that we can evade sovereign power and reinstate a form of power relation by contesting sovereign power’s assumption of the right to draw lines, that is, by contesting the sovereign ban. Any other challenge always inevitably remains within this relationship of violence. To move outside it (and return to a power relation) we need not only to contest its right to draw lines in particular places, but also to resist the call to draw any lines of the sort sovereign power demands.

The grammar of sovereign power cannot be resisted by challenging or fighting over where the lines are drawn. Whilst, of course, this is a strategy that can be deployed, it is not a challenge to sovereign power per se as it still tacitly or even explicitly accepts that lines must be drawn somewhere (and preferably more inclusively). Although such strategies contest the violence of sovereign power’s drawing of a particular line, they risk replicating such violence in demanding the line be drawn differently**.** This is because such forms of challenge fail to refuse sovereign power’s line-drawing ‘ethos’, an ethos which, as Agamben points out, renders us all now homines sacri or bare life.

#### We’re in a state of emergyenc

**Obama, 12 –** Barack, the sovereign (“Message -- Continuation of the National Emergency with Respect to Certain Terrorist Attacks,” 9/11/12, http://www.whitehouse.gov/the-press-office/2012/09/11/presidential-memorandum-continuation-national-emergency-respect-certain- //Red)

TO THE CONGRESS OF THE UNITED STATES:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, within the 90 day period prior to the anniversary date of its declaration, the President publishes in the Federal Register and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent to the Federal Register the enclosed notice, stating that the emergency declared with respect to the terrorist attacks on the United States of September 11, 2001, **is to continue in effect** for an additional year.

The terrorist threat that led to the declaration on September 14, 2001, of a national emergency continues. For this reason, **I have determined that it is necessary to continue in effect** after September 14, 2012, **the national emergency with respect to the terrorist threat.**

BARACK OBAMA

THE WHITE HOUSE,

September 11, 2012.

#### Potentiality as such: the alternative sufficiently solves if it demonstrates that a life otherwise is POSSIBLE—we cannot know precisely what movements the alternative would take, but SUBTRACTION itself is sufficient to demonstrate that a world otherwise is possible—scripting the forms the alternative would take is a link argument and should be ethically rejected.

Prozorov 10. Sergei Prozorov, professor of political and economic studies at the University of Helsinki, “Why Giorgio Agamben is an optimist,” Philosophy Social Criticism 2010 36: pg. 1069

The contingency of the outcome is certainly not the reason to evade the wager on ‘happy life’ or renounce all dreams of it, which would merely turn the contingent into the necessarily impossible. What we must do with our dreams is simply take the risk of using them without any fear of using them up, of ‘destroying’ and ‘falsifying’ them, of going to the bottom of them and finding nothing but the void. And even if they all amount to nothing, if the potential subjects of whatever being shrug and say ‘whatever’ in response to Agamben’s vision of happy life, this only means that ‘not only this is pos- sible’, that the possibility of a happy life remains a possibility, a possibility to succeed or, in Beckett’s terms, to fail better. This is the ultimate limit of Agamben’s optimism, beyond which his thought cannot venture, having dispensed with both will and necessity and finding its ground in absolute contingency alone. This curious optimism, which is only strengthened with each successive failure, resonates with Wallace Stevens’ famous words in Notes on the Supreme Fiction, ‘It is possible, possible, possible, it must be pos- sible. It must be that in time the real will from its crude compoundings come.’