## 1AC

### 1AC – Legitimacy Advantage

#### CONTENTION 1: LEGITIMACY

#### US credibility is collapsing due to detention policy---plan reverses that

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

The Global War on Terror 1 has been ideologically framed as a struggle between the principles of freedom and democracy on the one hand and tyranny and extremism on the other. 2 Although this war has arguably led to a short-term disruption of terrorist threats such as al-Qaeda, it has also damaged America’s image both at home and abroad. 3 Throughout the world, there is a growing consensus that America has “a lack of credibility as a fair and just world leader.” 4 The perceived legitimacy of the United States in the War on Terror is critical because terrorism is not a conventional threat that can surrender or can be defeated in the traditional sense. Instead, this battle can only be won through legitimizing the rule of law and undermining the use of terror as a means of political influence. 5 ¶ Although a variety of political, economic, and security policies have negatively impacted the perceived legitimacy of the United States, one of the most damaging has been the detention, treatment, and trial (or in many cases the lack thereof) of suspected terrorists. While many scholars have raised constitutional questions about the legality of U.S. detention procedures, 6 this article offers a psychological perspective of legitimacy in the context of detention.

#### Court oversight is the way forward in detention policy---it’s the only way to restore America’s image abroad

Glenn Sulmasy 9, Associate Professor of Law at the United States Coast Guard Academy and was a National Security and Human Rights Fellow at the Carr Center, Harvard Kennedy School, April 13, “THE NEED FOR A NATIONAL SECURITY COURT SYSTEM”, PDF

THE WAY FORWARD¶ The President, Secretary Gates and Secretary Rice have all declared that Guantanamo must close.16 Virtually 80% of the members of Congress have also declared that Guantanamo must close. Both major presidential candidates have called for its closure.17 The problem we face, however, is what to do once we close the facility. It is easy now in hindsight to be critical of the decision initially made by the administration and the way that things are currently being handled, but America’s next true challenge is to devise a way in which to deal with these terror suspects that will garner respect and admiration both domestically and abroad. Similar to changes in military strategy to win the war in Iraq and the war against al Qaeda, where the recognition was made that this new type of conflict required new tactics, the legal approach to handling terror suspects must change as well.¶ The solution is best seen through the lens of an evolutionary process, developing over time from the period of the Revolution, through the Civil War, through the First and Second World Wars and now into the realities we face in 21st century warfare. The Order of November 13, 2001, with all it warts and hairs, was undertaken with good intentions, but was later struck down by the Supreme Court. Recognizing the importance of trying these individuals, the President went to Congress for assistance, and subsequently Congress passed the Military Commissions Act of 2006,18 with warts and hairs of its own, but again making progress. A National Security Court System seems to be the next logical step in the natural progression of this “maturity” of justice. As we are fighting hybrid warriors, in a hybrid war—a mix of law enforcement and combat—a hybrid court should be created to adjudicate the alleged war crimes committed by these hybrid warriors.¶ Obviously, the key is to balance the needs of national security and to achieve our simultaneous goal of promoting human rights. Attaining that delicate balance is certainly critical. The success of this proposed new court system will depend upon its acceptance by Congressional and administration leaders who truly want to strike a balance between security and the rule of law. Clearly, the devil will be in the details in creating such a court through statutes.¶ The political branches have tough decisions to make in the next Congress and Presidency when it comes time for the actual closing of Guantanamo and the inevitable transfer of detainees. The most practical way of detaining and adjudicating these cases is to locate the National Security Court system on a number of military bases across the country. Detention and physical security issues would still exist, but these bases would be better suited to handle these situations than courts in downtown districts in major cities within Congressional districts.¶ While the detention and trial of these suspects would take place on American military bases, the key distinction from the existing military commissions system is that military oversight of the process would be transferred to civilian control. The Department of Justice would replace the Department of Defense in this new system, and specialized Article III judges would try the cases. The Justice Department would develop a pool of litigators out of their national security division branch to prosecute the suspects. Current military JAGs would defend the suspects with funding provided by outside sources. Having the civilian Department of Justice oversee the national security court is crucial to the success of the system and would help restore America’s image abroad. The new proposed system would also remove the tainted impression that the rest of the world receives by watching U.S. military officers in a U.S. military courtroom adjudicate cases against quasi-warriors.¶ In this new system, the President would appoint the system’s judges with the advice and consent of the Senate. The judges would be life tenured Article III judges, selected for possessing specialized knowledge of the substantive law surrounding issues of terrorism and a high level of practical experience.¶ Most importantly, the new system needs to be created as an adjudicatory system rather than part of a preventative detention scheme. Others, including my friend Ben Wittes, have argued in favor of using a national security court for detention and preventative detention schemes. I oppose this completely because using a national security court in this way would only transport the familiar problems from Gitmo into the United States. Trying the detainees in a properly constructed National Security Court, within a reasonable time frame, is the best means for the U.S. to regain some moral authority in world affairs. The United States must be active in ensuring that the cases go forward. The only way that the United States is going to gain credibility within the international legal community is to demonstrate that it is dedicated to the administration of justice and to upholding the rule of law.

#### The plan’s external oversight on detention maintains heg---legitimacy is the vital internal link to global stability

Robert Knowles 9, Acting Assistant Professor, New York University School of Law, Spring, “Article: American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, Lexis

The hegemonic model also reduces the need for executive branch flexibility, and the institutional competence terrain shifts toward the courts. The stability of the current U.S.-led international system depends on the ability of the U.S. to govern effectively. Effective governance depends on, among other things, predictability. n422 G. John Ikenberry analogizes America's hegemonic position to that of a "giant corporation" seeking foreign investors: "The rule of law and the institutions of policy making in a democracy are the political equivalent of corporate transparency and [\*155] accountability." n423 Stable interpretation of the law bolsters the stability of the system because other nations will know that they can rely on those interpretations and that there will be at least some degree of enforcement by the United States. At the same time, the separation of powers serves the global-governance function by reducing the ability of the executive branch to make "abrupt or aggressive moves toward other states." n424¶ The Bush Administration's detainee policy, for all of its virtues and faults, was an exceedingly aggressive departure from existing norms, and was therefore bound to generate intense controversy. It was formulated quickly, by a small group of policy-makers and legal advisors without consulting Congress and over the objections of even some within the executive branch. n425 Although the Administration invoked the law of armed conflict to justify its detention of enemy combatants, it did not seem to recognize limits imposed by that law. n426 Most significantly, it designed the detention scheme around interrogation rather than incapacitation and excluded the detainees from all legal protections of the Geneva Conventions. n427 It declared all detainees at Guantanamo to be "enemy combatants" without establishing a regularized process for making an individual determination for each detainee. n428 And when it established the military commissions, also without consulting Congress, the Administration denied defendants important procedural protections. n429¶ In an anarchic world characterized by great power conflict, one could make the argument that the executive branch requires maximum flexibility to defeat the enemy, who may not adhere to international law. Indeed, the precedents relied on most heavily by the Administration in the enemy combatant cases date from the 1930s and 1940s - a period when the international system was radically unstable, and the United States was one of several great powers vying for advantage. n430 But during that time, the executive branch faced much more exogenous pressure from other great powers to comply with international law in the treatment of captured enemies. If the United States strayed too far from established norms, it would risk retaliation upon its own soldiers or other consequences from [\*156] powerful rivals. Today, there are no such constraints: enemies such as al Qaeda are not great powers and are not likely to obey international law anyway. Instead, the danger is that American rule-breaking will set a pattern of rule-breaking for the world, leading to instability. n431 America's military predominance enables it to set the rules of the game. When the U.S. breaks its own rules, it loses legitimacy.¶ The Supreme Court's response to the detainee policy enabled the U.S. government as a whole to hew more closely to established procedures and norms, and to regularize the process for departing from them. After Hamdi, n432 the Department of Defense established a process, the CSRTs, for making an individual determination about the enemy combatant status of all detainees at Guantanamo. After the Court recognized habeas jurisdiction at Guantanamo, Congress passed the DTA, n433 establishing direct judicial review of CSRT determinations in lieu of habeas. Similarly, after the Court declared the military commissions unlawful in Hamdan, n434 this forced the Administration to seek congressional approval for commissions that restored some of the rights afforded at courts martial. n435 In Boumediene, the Court rejected the executive branch's foreign policy arguments, and bucked Congress as well, to restore the norm of habeas review. n436¶ Throughout this enemy combatant litigation, it has been the courts' relative insulation from politics that has enabled them to take the long view. In contrast, the President's (and Congress's) responsiveness to political concerns in the wake of 9/11 has encouraged them to depart from established norms for the nation's perceived short-term advantage, even at the expense of the nation's long-term interests. n437 As Derek Jinks and Neal Katyal have observed, "treaties are part of [a] system of time-tested standards, and this feature makes the wisdom of their judicial interpretation manifest." n438¶ At the same time, the enemy combatant cases make allowances for the executive branch's superior speed. The care that the Court took to limit the issues it decided in each case gave the executive branch plenty of time to [\*157] arrive at an effective detainee policy. n439 Hamdi, Rasul, and Boumediene recognized that the availability of habeas would depend on the distance from the battlefield and the length of detention. n440¶ The enemy combatant litigation also underscores the extent to which the classic realist assumptions about courts' legitimacy in foreign affairs have been turned on their head. In an anarchic world, legitimacy derives largely from brute force. The courts have no armies at their disposal and look weak when they issue decisions that cannot be enforced. n441 But in a hegemonic system, where governance depends on voluntary acquiescence, the courts have a greater role to play. Rather than hobbling the exercise of foreign policy, the courts are a key form of "soft power." n442 As Justice Kennedy's majority opinion observed in Boumediene, courts can bestow external legitimacy on the acts of the political branches. n443 Acts having a basis in law are almost universally regarded as more legitimate than merely political acts. Most foreign policy experts believe that the Bush Administration's detention scheme "hurt America's image and standing in the world." n444 The restoration of habeas corpus in Boumediene may help begin to counteract this loss of prestige.¶ Finally, the enemy combatant cases are striking in that they embrace a role for representation-reinforcement in the international realm. n445 Although defenders of special deference acknowledge that courts' strengths lie in protecting the rights of minorities, it has been very difficult for courts to protect these rights in the face of exigencies asserted by the executive branch in foreign affairs matters. This is especially difficult when the minorities are alleged enemy aliens being held outside the sovereign territory of the United States in wartime. In the infamous Korematsu decision, another World War II-era case, the Court bowed to the President's factual assessment of the emergency justifying detention of U.S. citizens of Japanese ancestry living in the United States. n446 In Boumediene, the Court [\*158] pointedly declined to defer to the executive branch's factual assessments of military necessity. n447 The court may have recognized that a more aggressive role in protecting the rights of non-citizens was required by American hegemony. In fact, the arguments for deference with respect to the rights of non-citizens are even weaker because aliens lack a political constituency in the United States. n448 This outward-looking form of representation-reinforcement serves important functions. It strengthens the legitimacy of U.S. hegemony by establishing equality as a benchmark and reinforces the sense that our constitutional values reflect universal human rights. n449¶ Conclusion¶ When it comes to the constitutional regime of foreign affairs, geopolitics has always mattered. Understandings about America's role in the world have shaped foreign affairs doctrines. But the classic realist assumptions that support special deference do not reflect the world as it is today. A better, more realist, approach looks to the ways that the courts can reinforce and legitimize America's leadership role. The Supreme Court's rejection of the government's claimed exigencies in the enemy combatant cases strongly indicates that the Judiciary is becoming reconciled to the current world order and is asserting its prerogatives in response to the fewer constraints imposed on the executive branch. In other words, the courts are moving toward the hegemonic model. In the great dismal swamp that is the judicial treatment of foreign affairs, this transformation offers hope for clarity: the positive reality of the international system, despite terrorism and other serious challenges, permits the courts to reduce the "deference gap" between foreign and domestic cases.

#### Nuclear war

Zhang and Shi 11 Yuhan Zhang is a researcher at the Carnegie Endowment for International Peace, Washington, D.C.; Lin Shi is from Columbia University. She also serves as an independent consultant for the Eurasia Group and a consultant for the World Bank in Washington, D.C., 1/22, “America’s decline: A harbinger of conflict and rivalry”, http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/

This does not necessarily mean that the US is in systemic decline, but it encompasses a trend that appears to be negative and perhaps alarming. Although the US still possesses incomparable military prowess and its economy remains the world’s largest, the once seemingly indomitable chasm that separated America from anyone else is narrowing. Thus, the global distribution of power is shifting, and the inevitable result will be a world that is less peaceful, liberal and prosperous, burdened by a dearth of effective conflict regulation. Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

#### Material power’s irrelevant---lack of legitimacy makes heg ineffective

Barak Mendelsohn 10, assistant professor of political science at Haverford College and a senior fellow of FPRI. Author of Combating Jihadism: American Hegemony and Interstate Cooperation in the War on Terrorism, June 2010, “The Question of International Cooperation in the War on Terrorism”, http://www.fpri.org/enotes/201006.mendelsohn.cooperationwarterror.html

Going against common conceptions, I argue that the United States sought to advance more than what it viewed as simply its own interest. The United States stands behind multiple collaborative enterprises and should be credited for that. Nevertheless, sometimes it has overreached, sought to gain special rights other states do not have, or presented strategies that were not compatible with the general design of the war on terrorism, to which most states subscribed. When it went too far, the United States found that, while secondary powers could not stop it from taking action, they could deny it legitimacy and make the achievement of its objectives unattainable. Thus, despite the common narrative, U.S. power was successfully checked, and the United States found the limitations of its power, even under the Bush administration. Defining Hegemony Let me begin with my conception of hegemony. While the definition of hegemony is based on its material aspects—the preponderance of power—hegemony should be understood as a part of a social web comprised of states. A hegemon relates to the other states in the system not merely through the prism of power balances, but through shared norms and a system of rules providing an umbrella for interstate relations. Although interstate conflict is ubiquitous in international society and the pursuit of particularistic interests is common, the international society provides a normative framework that restricts and moderates the hegemon's actions. This normative framework accounts for the hegemon's inclination toward orderly and peaceful interstate relations and minimizes its reliance on power. A hegemon’s role in the international community relies on legitimacy. Legitimacy is associated with external recognition of the hegemon’s right of primacy, not just the fact of this primacy. States recognize the hegemon’s power, but they develop expectations that go beyond the idea that the hegemon will act as it wishes because it has the capabilities to do so. Instead, the primacy of the hegemon is manifested in the belief that, while it has special rights that other members of the international society lack, it also has a set of duties to the members of the international society. As long as the hegemon realizes its commitment to the collective, its position will be deemed legitimate. International cooperation is hard to achieve. And, in general, international relations is not a story of harmony. A state’s first inclination is to think about its own interests, and states always prefer doing less over doing more. The inclination to pass the buck or to free ride on the efforts of others is always in the background. If a hegemon is willing to lead in pursuit of collective interests and to shoulder most of the burden, it can improve the prospects of international cooperation. However, even when there is a hegemon willing to lead a collective action and when states accept that action is needed, obstacles may still arise. These difficulties can be attributed to various factors, but especially prominent is the disagreement over the particular strategy that the hegemon promotes in pursuing the general interest. When states think that the strategy and policies offered by the hegemon are not compatible with the accepted rules of “rightful conduct” and break established norms, many will disapprove and resist. Indeed, while acceptance of a hegemon’s leadership in international society may result in broad willingness to cooperate with the hegemon in pursuit of shared interests it does not guarantee immediate and unconditional compliance with all the policies the hegemon articulates. While its legitimacy does transfer to its actions and grants some leeway, that legitimacy does not justify every policy the hegemon pursues—particularly those policies that are not seen as naturally deriving from the existing order. As a result, specific policies must be legitimated before cooperation takes place. This process constrains the hegemon’s actions and prevents the uninhibited exercise of power.

#### Independently, absent renewal of rule of law principles, multilateral cooperation to solve warming and disease is impossible

John G. Ikenberry 11, Albert G. Milbank Professor of Politics and International Affairs at Princeton, Spring, “A World of Our Making”, http://www.democracyjournal.org/20/a-world-of-our-making.php?page=all

Grand Strategy as Liberal Order Building American dominance of the global system will eventually yield to the rise of other powerful states. The unipolar moment will pass. In facing this circumstance, American grand strategy should be informed by answers to this question: What sort of international order would we like to see in place in 2020 or 2030 when America is less powerful? Grand strategy is a set of coordinated and sustained policies designed to address the long-term threats and opportunities that lie beyond the country’s shores. Given the great shifts in the global system and the crisis of liberal hegemonic order, how should the United States pursue grand strategy in the coming years? The answer is that the United States should work with others to rebuild and renew the institutional foundations of the liberal international order and along the way re-establish its own authority as a global leader. The United States is going to need to invest in alliances, partnerships, multilateral institutions, special relationships, great-power concerts, cooperative security pacts, and democratic security communities. That is, the United States will need to return to the great tasks of liberal order building. It is useful to distinguish between two types of grand strategy: positional and milieu oriented. With a positional grand strategy, a great power seeks to diminish the power or threat embodied in a specific challenger state or group of states. Examples are Nazi Germany, Imperial Japan, the Soviet bloc, and perhaps—in the future—Greater China. With a milieu-oriented grand strategy, a great power does not target a specific state but seeks to structure its general international environment in ways that are congenial with its long-term security. This might entail building the infrastructure of international cooperation, promoting trade and democracy in various regions of the world, and establishing partnerships that might be useful for various contingencies. My point is that under conditions of unipolarity, in a world of diffuse threats, and with pervasive uncertainty over what the specific security challenges will be in the future, this milieu-based approach to grand strategy is necessary. The United States does not face the sort of singular geopolitical threat that it did with the fascist and communist powers of the last century. Indeed, compared with the dark days of the 1930s or the Cold War, America lives in an extraordinarily benign security environment. Rather than a single overriding threat, the United States and other countries face a host of diffuse and evolving threats. Global warming, nuclear proliferation, jihadist terrorism, energy security, health pandemics—these and other dangers loom on the horizon. Any of these threats could endanger Americans’ lives and way of life either directly or indirectly by destabilizing the global system upon which American security and prosperity depends. What is more, these threats are interconnected—and it is their interactive effects that represent the most acute danger. And if several of these threats materialize at the same time and interact to generate greater violence and instability, then the global order itself, as well as the foundations of American national security, would be put at risk. What unites these threats and challenges is that they are all manifestations of rising security interdependence. More and more of what goes on in other countries matters for the health and safety of the United States and the rest of the world. Many of the new dangers—such as health pandemics and transnational terrorist violence—stem from the weakness of states rather than their strength. At the same time, technologies of violence are evolving, providing opportunities for weak states or nonstate groups to threaten others at a greater distance. When states are in a situation of security interdependence, they cannot go it alone. They must negotiate and cooperate with other states and seek mutual restraints and protections. The United States can-not hide or protect itself from threats under conditions of rising security interdependence. It must get out in the world and work with other states to build frameworks of cooperation and leverage capacities for action against this unusually diverse, diffuse, and unpredictable array of threats and challenges. This is why a milieu-based grand strategy is attractive. The objective is to shape the international environment to maximize your capacities to protect the nation from threats. To engage in liberal order building is to invest in international cooperative frameworks—that is, rules, institutions, partnerships, networks, standby capacities, social knowledge, etc.—in which the United States operates. To build international order is to increase the global stock of “social capital”—which is the term Pierre Bourdieu, Robert Putnam, and other social scientists have used to define the actual and potential resources and capacities within a political community, manifest in and through its networks of social relations, that are available for solving collective problems. If American grand strategy is to be organized around liberal order building, what are the specific objectives and what is the policy agenda? There are five such objectives. First, the United States needs to lead in the building of an enhanced protective infrastructure that helps prevent the emergence of threats and limits the damage if they do materialize. Many of the threats mentioned above are manifest as socioeconomic backwardness and failure that cause regional and international instability and conflict. These are the sorts of threats that are likely to arise with the coming of global warming and epidemic disease. What is needed here is institutional cooperation to strengthen the capacity of governments and the international com-munity to prevent epidemics or food shortages or mass migrations that create global upheaval—and mitigate the effects of these upheavals if they occur. The international system already has a great deal of this protective infrastructure—institutions and networks that pro-mote cooperation over public health, refugees, and emergency aid. But as the scale and scope of potential problems grow in the twenty-first century, investments in these preventive and management capacities will also need to grow. Early warning systems, protocols for emergency operations, standby capacities, etc.—these safeguards are the stuff of a protective global infrastructure. Second, the United States should recommit to and rebuild its security alliances. The idea is to update the old bargains that lie behind these security pacts. In NATO, but also in the East Asia bilateral partner-ships, the United States agrees to provide security protection to the other states and brings its partners into the process of decision-making over the use of force. In return, these partners agree to work with the United States—providing manpower, logistics, and other types of support—in wider theaters of action. The United States gives up some autonomy in strategic decision-making, although it is more an informal restraint than a legally binding one, and in exchange it gets cooperation and political support. Third, the United States should reform and create encompassing global institutions that foster and legitimate collective action. The first move here should be to reform the United Nations, starting with the expansion of the permanent membership on the Security Council. Several plans have been proposed. All of them entail adding new members—such as Germany, Japan, India, Brazil, South Africa, and others—and reforming the voting procedures. Almost all of the candidates for permanent membership are mature or rising democracies. The goal, of course, is to make them stakeholders in the United Nations and thereby strengthen the primacy of the UN as a vehicle for global collective action. There really is no substitute for the legitimacy that the United Nations can offer to emergency actions—humanitarian interventions, economic sanctions, uses of force against terrorists, and so forth. Public support in advanced democracies grows rapidly when their governments can stand behind a UN-sanctioned action. Fourth, the United States should accommodate and institution-ally engage China. China will most likely be a dominant state, and the United States will need to yield to it in various ways. The United States should respond to the rise of China by strengthening the rules and institutions of the liberal international order—deepening their roots, integrating rising capitalist democracies, sharing authority and functional roles. The United States should also intensify cooperation with Europe and renew joint commitments to alliances and multilateral global governance. The more that China faces not just the United States but the entire world of capitalist democracies, the better. This is not to argue that China must face a grand counterbalancing alliance against it. Rather, it should face a complex and highly integrated global system—one that is so encompassing and deeply entrenched that it essentially has no choice but to join it and seek to prosper within it. The United States should also be seeking to construct a regional security order in East Asia that can provide a framework for managing the coming shifts. The idea is not to block China’s entry into the regional order but to help shape its terms, looking for opportunities to strike strategic bargains at various moments along the shifting power trajectories and encroaching geopolitical spheres. The big bargain that the United States will want to strike is this: to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core strategic interests, which include remaining a dominant security provider within East Asia. In striking this strategic bargain, the United States will also want to try to build multilateral institutional arrangements in East Asia that will tie China to the wider region. Fifth, the United States should reclaim a liberal internationalist public philosophy. When American officials after World War II championed the building of a rule-based postwar order, they articulated a distinctive internationalist vision of order that has faded in recent decades. It was a vision that entailed a synthesis of liberal and realist ideas about economic and national security, and the sources of stable and peaceful order. These ideas—drawn from the experiences with the New Deal and the previous decades of war and depression—led American leaders to associate the national interest with the building of a managed and institutionalized global system. What is needed today is a renewed public philosophy of liberal internationalism—a shift away from neoliberal-ism—that can inform American elites as they make trade-offs between sovereignty and institutional cooperation. Under this philosophy, the restraint and the commitment of American power went hand in hand. Global rules and institutions advanced America’s national interest rather than threatened it. The alternative public philosophies that have circulated in recent years—philosophies that champion American unilateralism and disentanglement from global rules and institutions—did not meet with great success. So an opening exists for America’s postwar vision of internationalism to be updated and rearticulated today. The United States should embrace the tenets of this liberal public philosophy: Lead with rules rather than dominate with power; provide public goods and connect their provision to cooperative and accommodative policies of others; build and renew international rules and institutions that work to reinforce the capacities of states to govern and achieve security and economic success; keep the other liberal democracies close; and let the global system itself do the deep work of liberal modernization. As it navigates this brave new world, the United States will find itself needing to share power and rely in part on others to ensure its security. It will not be able to depend on unipolar power or airtight borders. It will need, above all else, authority and respect as a global leader. The United States has lost some of that authority and respect in recent years. In committing itself to a grand strategy of liberal order building, it can begin the process of gaining it back.

#### Warming causes extinction

Don Flournoy 12, Citing Feng Hsu, PhD NASA Scientist @ the Goddard Space Flight Center and Don is a PhD and MA from UT, former Dean of the University College @ Ohio University, former Associate Dean at SUNY and Case Institute of Technology, Former Manager for University/Industry Experiments for the NASA ACTS Satellite, currently Professor of Telecommunications @ Scripps College of Communications, Ohio University, “Solar Power Satellites,” January 2012, Springer Briefs in Space Development, p. 10-11

In the Online Journal of Space Communication , Dr. Feng Hsu, a  NASA scientist at Goddard Space Flight Center, a research center in the forefront of science of space and Earth, writes, “The evidence of global warming is alarming,” noting the potential for a catastrophic planetary climate change is real and troubling (Hsu 2010 ) . Hsu and his NASA colleagues were engaged in monitoring and analyzing climate changes on a global scale, through which they received first-hand scientific information and data relating to global warming issues, including the dynamics of polar ice cap melting. After discussing this research with colleagues who were world experts on the subject, he wrote: I now have no doubt global temperatures are rising, and that global warming is a serious problem confronting all of humanity. No matter whether these trends are due to human interference or to the cosmic cycling of our solar system, there are two basic facts that are crystal clear: (a) there is overwhelming scientific evidence showing positive correlations between the level of CO2 concentrations in Earth’s atmosphere with respect to the historical fluctuations of global temperature changes; and (b) the overwhelming majority of the world’s scientific community is in agreement about the risks of a potential catastrophic global climate change. That is, if we humans continue to ignore this problem and do nothing, if we continue dumping huge quantities of greenhouse gases into Earth’s biosphere, humanity will be at dire risk (Hsu 2010 ) . As a technology risk assessment expert, Hsu says he can show with some confidence that the planet will face more risk doing nothing to curb its fossil-based energy addictions than it will in making a fundamental shift in its energy supply. “This,” he writes, “is because the risks of a catastrophic anthropogenic climate change can be potentially the extinction of human species, a risk that is simply too high for us to take any chances” (Hsu 2010 ).

#### Diseases end civilization

David Quammen 12, award-winning science writer, long-time columnist for Outside magazine for fifteen years, with work in National Geographic, Harper's, Rolling Stone, the New York Times Book Review and other periodicals, 9/29, “Could the next big animal-to-human disease wipe us out?,” The Guardian, pg. 29, Lexis

Infectious disease is all around us. It's one of the basic processes that ecologists study, along with predation and competition. Predators are big beasts that eat their prey from outside. Pathogens (disease-causing agents, such as viruses) are small beasts that eat their prey from within. Although infectious disease can seem grisly and dreadful, under ordinary conditions, it's every bit as natural as what lions do to wildebeests and zebras. But conditions aren't always ordinary. Just as predators have their accustomed prey, so do pathogens. And just as a lion might occasionally depart from its normal behaviour - to kill a cow instead of a wildebeest, or a human instead of a zebra - so a pathogen can shift to a new target. Aberrations occur. When a pathogen leaps from an animal into a person, and succeeds in establishing itself as an infectious presence, sometimes causing illness or death, the result is a zoonosis. It's a mildly technical term, zoonosis, unfamiliar to most people, but it helps clarify the biological complexities behind the ominous headlines about swine flu, bird flu, Sars, emerging diseases in general, and the threat of a global pandemic. It's a word of the future, destined for heavy use in the 21st century. Ebola and Marburg are zoonoses. So is bubonic plague. So was the so-called Spanish influenza of 1918-1919, which had its source in a wild aquatic bird and emerged to kill as many as 50 million people. All of the human influenzas are zoonoses. As are monkeypox, bovine tuberculosis, Lyme disease, West Nile fever, rabies and a strange new affliction called Nipah encephalitis, which has killed pigs and pig farmers in Malaysia. Each of these zoonoses reflects the action of a pathogen that can "spillover", crossing into people from other animals. Aids is a disease of zoonotic origin caused by a virus that, having reached humans through a few accidental events in western and central Africa, now passes human-to-human. This form of interspecies leap is not rare; about 60% of all human infectious diseases currently known either cross routinely or have recently crossed between other animals and us. Some of those - notably rabies - are familiar, widespread and still horrendously lethal, killing humans by the thousands despite centuries of efforts at coping with their effects. Others are new and inexplicably sporadic, claiming a few victims or a few hundred, and then disappearing for years. Zoonotic pathogens can hide. The least conspicuous strategy is to lurk within what's called a reservoir host: a living organism that carries the pathogen while suffering little or no illness. When a disease seems to disappear between outbreaks, it's often still lingering nearby, within some reservoir host. A rodent? A bird? A butterfly? A bat? To reside undetected is probably easiest wherever biological diversity is high and the ecosystem is relatively undisturbed. The converse is also true: ecological disturbance causes diseases to emerge. Shake a tree and things fall out. Michelle Barnes is an energetic, late 40s-ish woman, an avid rock climber and cyclist. Her auburn hair, she told me cheerily, came from a bottle. It approximates the original colour, but the original is gone. In 2008, her hair started falling out; the rest went grey "pretty much overnight". This was among the lesser effects of a mystery illness that had nearly killed her during January that year, just after she'd returned from Uganda. Her story paralleled the one Jaap Taal had told me about Astrid, with several key differences - the main one being that Michelle Barnes was still alive. Michelle and her husband, Rick Taylor, had wanted to see mountain gorillas, too. Their guide had taken them through Maramagambo Forest and into Python Cave. They, too, had to clamber across those slippery boulders. As a rock climber, Barnes said, she tends to be very conscious of where she places her hands. No, she didn't touch any guano. No, she was not bumped by a bat. By late afternoon they were back, watching the sunset. It was Christmas evening 2007. They arrived home on New Year's Day. On 4 January, Barnes woke up feeling as if someone had driven a needle into her skull. She was achy all over, feverish. "And then, as the day went on, I started developing a rash across my stomach." The rash spread. "Over the next 48 hours, I just went down really fast." By the time Barnes turned up at a hospital in suburban Denver, she was dehydrated; her white blood count was imperceptible; her kidneys and liver had begun shutting down. An infectious disease specialist, Dr Norman K Fujita, arranged for her to be tested for a range of infections that might be contracted in Africa. All came back negative, including the test for Marburg. Gradually her body regained strength and her organs began to recover. After 12 days, she left hospital, still weak and anaemic, still undiagnosed. In March she saw Fujita on a follow-up visit and he had her serum tested again for Marburg. Again, negative. Three more months passed, and Barnes, now grey-haired, lacking her old energy, suffering abdominal pain, unable to focus, got an email from a journalist she and Taylor had met on the Uganda trip, who had just seen a news article. In the Netherlands, a woman had died of Marburg after a Ugandan holiday during which she had visited a cave full of bats. Barnes spent the next 24 hours Googling every article on the case she could find. Early the following Monday morning, she was back at Dr Fujita's door. He agreed to test her a third time for Marburg. This time a lab technician crosschecked the third sample, and then the first sample. The new results went to Fujita, who called Barnes: "You're now an honorary infectious disease doctor. You've self-diagnosed, and the Marburg test came back positive." The Marburg virus had reappeared in Uganda in 2007. It was a small outbreak, affecting four miners, one of whom died, working at a site called Kitaka Cave. But Joosten's death, and Barnes's diagnosis, implied a change in the potential scope of the situation. That local Ugandans were dying of Marburg was a severe concern - sufficient to bring a response team of scientists in haste. But if tourists, too, were involved, tripping in and out of some python-infested Marburg repository, unprotected, and then boarding their return flights to other continents, the place was not just a peril for Ugandan miners and their families. It was also an international threat. The first team of scientists had collected about 800 bats from Kitaka Cave for dissecting and sampling, and marked and released more than 1,000, using beaded collars coded with a number. That team, including scientist Brian Amman, had found live Marburg virus in five bats. Entering Python Cave after Joosten's death, another team of scientists, again including Amman, came across one of the beaded collars they had placed on captured bats three months earlier and 30 miles away. "It confirmed my suspicions that these bats are moving," Amman said - and moving not only through the forest but from one roosting site to another. Travel of individual bats between far-flung roosts implied circumstances whereby Marburg virus might ultimately be transmitted all across Africa, from one bat encampment to another. It voided the comforting assumption that this virus is strictly localised. And it highlighted the complementary question: why don't outbreaks of Marburg virus disease happen more often? Marburg is only one instance to which that question applies. Why not more Ebola? Why not more Sars? In the case of Sars, the scenario could have been very much worse. Apart from the 2003 outbreak and the aftershock cases in early 2004, it hasn't recurred. . . so far. Eight thousand cases are relatively few for such an explosive infection; 774 people died, not 7 million. Several factors contributed to limiting the scope and impact of the outbreak, of which humanity's good luck was only one. Another was the speed and excellence of the laboratory diagnostics - finding the virus and identifying it. Still another was the brisk efficiency with which cases were isolated, contacts were traced and quarantine measures were instituted, first in southern China, then in Hong Kong, Singapore, Hanoi and Toronto. If the virus had arrived in a different sort of big city - more loosely governed, full of poor people, lacking first-rate medical institutions - it might have burned through a much larger segment of humanity. One further factor, possibly the most crucial, was inherent in the way Sars affects the human body: symptoms tend to appear in a person before, rather than after, that person becomes highly infectious. That allowed many Sars cases to be recognised, hospitalised and placed in isolation before they hit their peak of infectivity. With influenza and many other diseases, the order is reversed. That probably helped account for the scale of worldwide misery and death during the 1918-1919 influenza. And that infamous global pandemic occurred in the era before globalisation. Everything nowadays moves around the planet faster, including viruses. When the Next Big One comes, it will likely conform to the same perverse pattern as the 1918 influenza: high infectivity preceding notable symptoms. That will help it move through cities and airports like an angel of death. The Next Big One is a subject that disease scientists around the world often address. The most recent big one is Aids, of which the eventual total bigness cannot even be predicted - about 30 million deaths, 34 million living people infected, and with no end in sight. Fortunately, not every virus goes airborne from one host to another. If HIV-1 could, you and I might already be dead. If the rabies virus could, it would be the most horrific pathogen on the planet. The influenzas are well adapted for airborne transmission, which is why a new strain can circle the world within days. The Sars virus travels this route, too, or anyway by the respiratory droplets of sneezes and coughs - hanging in the air of a hotel corridor, moving through the cabin of an aeroplane - and that capacity, combined with its case fatality rate of almost 10%, is what made it so scary in 2003 to the people who understood it best. Human-to-human transmission is the crux. That capacity is what separates a bizarre, awful, localised, intermittent and mysterious disease (such as Ebola) from a global pandemic. Have you noticed the persistent, low-level buzz about avian influenza, the strain known as H5N1, among disease experts over the past 15 years? That's because avian flu worries them deeply, though it hasn't caused many human fatalities. Swine flu comes and goes periodically in the human population (as it came and went during 2009), sometimes causing a bad pandemic and sometimes (as in 2009) not so bad as expected; but avian flu resides in a different category of menacing possibility. It worries the flu scientists because they know that H5N1 influenza is extremely virulent in people, with a high lethality. As yet, there have been a relatively low number of cases, and it is poorly transmissible, so far, from human to human. It'll kill you if you catch it, very likely, but you're unlikely to catch it except by butchering an infected chicken. But if H5N1 mutates or reassembles itself in just the right way, if it adapts for human-to-human transmission, it could become the biggest and fastest killer disease since 1918. It got to Egypt in 2006 and has been especially problematic for that country. As of August 2011, there were 151 confirmed cases, of which 52 were fatal. That represents more than a quarter of all the world's known human cases of bird flu since H5N1 emerged in 1997. But here's a critical fact: those unfortunate Egyptian patients all seem to have acquired the virus directly from birds. This indicates that the virus hasn't yet found an efficient way to pass from one person to another. Two aspects of the situation are dangerous, according to biologist Robert Webster. The first is that Egypt, given its recent political upheavals, may be unable to staunch an outbreak of transmissible avian flu, if one occurs. His second concern is shared by influenza researchers and public health officials around the globe: with all that mutating, with all that contact between people and their infected birds, the virus could hit upon a genetic configuration making it highly transmissible among people. "As long as H5N1 is out there in the world," Webster told me, "there is the possibility of disaster. . . There is the theoretical possibility that it can acquire the ability to transmit human-to-human." He paused. "And then God help us." We're unique in the history of mammals. No other primate has ever weighed upon the planet to anything like the degree we do. In ecological terms, we are almost paradoxical: large-bodied and long-lived but grotesquely abundant. We are an outbreak. And here's the thing about outbreaks: they end. In some cases they end after many years, in others they end rather soon. In some cases they end gradually, in others they end with a crash. In certain cases, they end and recur and end again. Populations of tent caterpillars, for example, seem to rise steeply and fall sharply on a cycle of anywhere from five to 11 years. The crash endings are dramatic, and for a long while they seemed mysterious. What could account for such sudden and recurrent collapses? One possible factor is infectious disease, and viruses in particular.

#### Judicial involvement is key to the credibility of detention decisions

Matthew C Waxman 9, Professor of Law; Faculty Chair, Roger Hertog Program on Law and National Security, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book

Judicial review can help safeguard liberty and enhance the credibility at home and abroad of administrative detention decisions by ensuring the neutrality of the decisionmaker and publicly certifying the legality of the detention in question. Most calls for reform of existing detention laws start with a 47 strong role for courts. Some commentators believe that a special court is needed, perhaps a “national security court” made up of designated judges who would build expertise in terrorism cases over time. 16 Others suggest that the Foreign Intelligence Surveillance Court already has judges with expertise in handling sensitive intelligence matters and mechanisms in place to ensure secrecy, so its jurisdiction ought to be expanded to handle detention cases. 17 Still others insist that specialized terrorism courts are dangerous; the legitimacy of a detention system can best be ensured by giving regular, generalist judges a say in each decision. ¶ Adversarial process and access to attorneys can help further protect liberty and enhance the perceived legitimacy of detention systems. As with judicial review, however, proposals tend to split over how best to organize and ensure that process. Some argue that habeas corpus suits are the best check on administrative detention. 18 Others argue that administrative detention decisions should be contested at an early stage by a lawyer of the detainee’s choosing. 19 Still others recognize an imperative need for secrecy and deep expertise in terrorism and intelligence matters that calls for designating a special “defense bar” operated by the government on detainees’ behalf.¶ The issue of secrecy runs in tension with a third common element of procedural and institutional reform proposals: openness and transparency. The Bush administration’s approach was considered by some to be prone to error in part because of its excessive secrecy and hostility to the prying courts and Congress as well as to the press and advocacy groups. Critics and reformists argue that hearings should be open or at least partially open and that judgments should be written so that they can be scrutinized later by the public or congressional oversight committees; that, they claim, would help put pressure on the executive branch to exercise greater care in deciding which detention cases to pursue and put pressure on adjudicators to act in good faith and with more diligence.¶ These three elements of procedural design reform— judicial review, adversarial process, and transparency— may help reduce the likelihood of mistakes and restore the credibility of detention decisionmaking. Rarely, though, do the discussions pause long on the antecedent question of what it is that the courts— however constituted— will evaluate. Judicial review of what? A meaningful opportunity to contest what with the assistance of counsel? Transparent determinations of what?

### 1AC – Democracy Advantage

#### CONTENTION 2: DEMOCRACY

#### Democratic liberalism is backsliding now---the US model of an unrestrained executive causes collapse

Larry Diamond 9, Professor of Political Science and Sociology @ Stanford, “The Impact of the Global Financial Crisis on Democracy”, Presented to the SAIS-CGD Conference on New Ideas in Development after the Financial Crisis, Conference Paper that can be found on his Vita

Concern about the future of democracy is further warranted by the gathering signs of a democratic recession, even before the onset of the global economic recession. During the past decade, the global expansion of democracy has essentially leveled off and hit an equilibrium While freedom (political rights and civil liberties) continued to expand throughout the post-Cold War era, that progress also halted in 2006, and 2007 and 2008 were the worst consecutive years for freedom since the end of the Cold War, with the number of countries declining in freedom greatly outstripping the number that improved. Two-thirds of all the breakdowns of democracy since the third wave began in 1974 have occurred in the last nine years, and in a number of strategically important states like Russia, Nigeria, Venezuela, Pakistan and Thailand. Many of these countries have not really returned to democracy. And a number of countries linger in a twilight zone between democracy and authoritarianism. While normative support for democracy has grown around the world, it remains in many countries, tentative and uneven, or is even eroding under the weight of growing public cynicism about corruption and the self-interested behavior of parties and politicians. Only about half of the public, on average, in Africa and Asia meets a rigorous, multidimensional test of support for democracy. Levels of distrust for political institutions—particularly political parties and legislatures, and politicians in general—are very high in Eastern Europe and Latin America, and in parts of Asia. In many countries, 30-50 percent of the public or more is willing to consider some authoritarian alternative to democracy, such as military or one-man rule. And where governance is bad or elections are rigged and the public cannot rotate leaders out of power, skepticism and defection from democracy grow. Of the roughly 80 new democracies that have emerged during the third wave and are still standing, probably close to three-quarters are insecure and could run some risk of reversal during adverse global and domestic circumstances. Less at risk—and probably mostly consolidated—are the more established developing country democracies (India, Costa Rica, Botswana, Mauritius), and the more liberal democracies of this group: the ten postcommunist states that have been admitted to the EU; Korea and Taiwan; Chile, Uruguay, Panama, Brazil, probably Argentina; a number of liberal island states in the Caribbean and Pacific. This leaves about 50 democracies and near democracies—including such big and strategically important states as Turkey, Ukraine, Indonesia, the Philippines, South Africa, certainly Pakistan and Bangladesh, and possibly even Mexico—where the survival of constitutional rule cannot be taken for granted. In some of these countries, like South Africa, the demise of democracy would probably come, if it happened, not as a result of a blatant overthrow of the current system, but rather via a gradual executive strangling of political pluralism and freedom, or a steady decline in state capacity and political order due to rising criminal and ethnic violence. Such circumstances would also swallow whatever hopes exist for the emergence of genuine democracy in countries like Iraq and Afghanistan and for the effective restoration of democracy in countries like Thailand and Nepal.

#### Democratic transitions are hanging in the balance---only empowering checks on executive power through rule of law can tip the scales

CJA 4 The Center for Justice and Accountability, Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10, Lexis

Many of the newly independent governments that have proliferated over the past five decades have adopted these ideals. They have emerged from a variety of less-than-free contexts, including the end of European colonial rule in the 1950's and 1960's, the end of the Cold War and the breakup of the former Soviet Union in the late 1980's and 1990's, the disintegration of Yugoslavia, and the continuing turmoil in parts of Africa, Latin America and southern Asia. Some countries have successfully transitioned to stable and democratic forms of government that protect individual freedoms and human rights by means of judicial review by a strong and independent judiciary. Others have suffered the rise of tyrannical and oppressive rulers who consolidated their hold on power in part by diminishing or abolishing the role of the judiciary. And still others hang in the balance, struggling against the onslaught of tyrants to establish stable, democratic governments. In their attempts to shed their tyrannical pasts and to ensure the protection of individual rights, emerging democracies have consistently looked to the United States and its Constitution in fashioning frameworks that safeguard the independence of their judiciaries . See Ran Hirschl, The Political Origins of Judicial Empowerment through Constitutionalization: Lessons from Four Constitutional Revolutions, 25 Law & Soc. Inquiry 91, 92 (2000) (stating that of the “[m]any countries . . . [that] have engaged in fundamental constitutional reform over the past three decades,” nearly all adopted “a bill of rights and establishe[d] some form of active judicial review”). Establishing judicial review by a strong and independent judiciary is a critical step in stabilizing and protecting these new democracies. See Christopher M. Larkins, Judicial Independence and Democratization: A Theoretical and Conceptual Analysis, 44 Am. J. Comp. L. 605, 605-06 (1996) (describing the judicial branch as having "a uniquely important role" in transitional countries, not only to "mediate conflicts between political actors but also [to] prevent the arbitrary exercise of government power; see also Daniel C. Prefontaine and Joanne Lee, The Rule of Law and the Independence of the Judiciary, International Centre for Criminal Law Reform and Criminal Justice Policy (1998) ("There is increasing acknowledgment that an independent judiciary is the key to upholding the rule of law in a free society . . . . Most countries in transition from dictatorships and/or statist economies recognize the need to create a more stable system of governance, based on the rule of law."), available at http://www.icclr.law.ubc.ca/Publications/Reports/RuleofLaw. pdf (last visited Jan. 8, 2004). Although the precise form of government differs among countries, “they ultimately constitute variations within, not from, the American model of constitutionalism . . . [a] specific set of fundamental rights and liberties has the status of supreme law, is entrenched against amendment or repeal . . . and is enforced by an independent court . . . .” Stephen Gardbaum, The New Commonwealth Model of Constitutionalism, 49 Am. J. Comp. L. 707, 718 (2001). This phenomenon became most notable worldwide after World War II when certain countries, such as Germany, Italy, and Japan, embraced independent judiciaries following their bitter experiences under totalitarian regimes. See id. at 714- 15; see also United States v. Then, 56 F.3d 464, 469 (2d Cir. 1995) (Calabresi, J., concurring) (“Since World War II, many countries have adopted forms of judicial review, which — though different from ours in many particulars — unmistakably draw their origin and inspiration from American constitutional theory and practice. See generally Mauro Cappelletti, The Judicial Process in Comparative Perspective (Oxford: Clarendon Press, 1989).”). It is a trend that continues to this day. It bears mention that the United States has consistently affirmed and encouraged the establishment of independent judiciaries in emerging democracies. In September 2000, President Clinton observed that "[w]ithout the rule of law, elections simply offer a choice of dictators. . . . America's experience should be put to use to advance the rule of law, where democracy's roots are looking for room and strength to grow." Remarks at Georgetown University Law School, 36 Weekly Comp. Pres. Doc. 2218 (September 26, 2000), available at http://clinton6.nara.gov/2000/09/2000-09-26- remarks-by-president-at-georgetown-international-lawcenter. html. The United States acts on these principles in part through the assistance it provides to developing nations. For example, the United States requires that any country seeking assistance through the Millenium Challenge Account, a development assistance program instituted in 2002, must demonstrate, among other criteria, an "adherence to the rule of law." The White House noted that the rule of law is one of the "essential conditions for successful development" of these countries. See http://www.whitehouse.gov/infocus/developingnations (last visited Jan. 8, 2004).12

#### US detention policy is key---it has justified democratic backsliding globally

CJA 4 The Center for Justice and Accountability, Amici Curiae in support of petitioners in Al Odah et al. v USA, "Brief of the Center for Justice and Accountability, the International League for Human Rights, and Individual Advocates for the Independence of the Judiciary in Emerging Democracies," 3-10, Lexis

While much of the world is moving to adopt the institutions necessary to secure individual rights, many still regularly abuse these rights. One of the hallmarks of tyranny is the lack of a strong and independent judiciary. Not surprisingly, where countries make the sad transition to tyranny, one of the first victims is the judiciary. Many of the rulers that go down that road justify their actions on the basis of national security and the fight against terrorism, and, disturbingly, many claim to be modeling their actions on the United States. Again, a few examples illustrate this trend. In Peru, one of former President Alberto Fujimori’s first acts in seizing control was to assume direct executive control of the judiciary, claiming that it was justified by the threat of domestic terrorism. He then imprisoned thousands, refusing the right of the judiciary to intervene. International Commission of Jurists, Attacks on Justice 2000-Peru, August 13, 2001, available at ttp://www.icj.org/news.php3?id\_article=2587&lang=en (last visited Jan. 8, 2004). In Zimbabwe, President Mugabe’s rise to dictatorship has been punctuated by threats of violence to and the co-opting of the judiciary. He now enjoys virtually total control over Zimbabweans' individual rights and the entire political system. R.W. Johnson, Mugabe’s Agents in Plot to Kill Opposition Chief, Sunday Times (London), June 10, 2001; International Commission of Jurists, Attacks on Justice 2002— Zimbabwe, August 27, 2002, available at http://www.icj.org/news.php3?id\_article=2695〈=en (last visited Jan. 8, 2004). While Peru and Zimbabwe represent an extreme, the independence of the judiciary is under assault in less brazen ways in a variety of countries today. A highly troubling aspect of this trend is the fact that in many of these instances those perpetuating the assaults on the judiciary have pointed to the United States’ model to justify their actions. Indeed, many have specifically referenced the United States’ actions in detaining persons in Guantánamo Bay. For example, Rais Yatim, Malaysia's "de facto law minister" explicitly relied on the detentions at Guantánamo to justify Malaysia's detention of more than 70 suspected Islamic militants for over two years. Rais stated that Malyasia's detentions were "just like the process in Guantánamo," adding, "I put the equation with Guantánamo just to make it graphic to you that this is not simply a Malaysian style of doing things." Sean Yoong, "Malaysia Slams Criticism of Security Law Allowing Detention Without Trial," Associated Press, September 9, 2003 (available from Westlaw at 9/9/03 APWIRES 09 :34:00). Similarly, when responding to a United States Government human rights report that listed rights violations in Namibia, Namibia's Information Permanent Secretary Mocks Shivute cited the Guantánamo Bay detentions, claiming that "the US government was the worst human rights violator in the world." BBC Monitoring, March 8, 2002, available at 2002 WL 15938703. Nor is this disturbing trend limited to these specific examples. At a recent conference held at the Carter Center in Atlanta, President Carter, specifically citing the Guantánamo Bay detentions, noted that the erosion of civil liberties in the United States has "given a blank check to nations who are inclined to violate human rights already." Doug Gross, "Carter: U.S. human rights missteps embolden foreign dictators," Associated Press Newswires, November 12, 2003 (available from Westlaw at 11/12/03 APWIRES 00:30:26). At the same conference, Professor Saad Ibrahim of the American University in Cairo (who was jailed for seven years after exposing fraud in the Egyptian election process) said, "Every dictator in the world is using what the United States has done under the Patriot Act . . . to justify their past violations of human rights and to declare a license to continue to violate human rights." Id. Likewise, Shehu Sani, president of the Kaduna, Nigeriabased Civil Rights Congress, wrote in the International Herald Tribune on September 15, 2003 that "[t]he insistence by the Bush administration on keeping Taliban and Al Quaeda captives in indefinite detention in Guantánamo Bay, Cuba, instead of in jails in the United States — and the White House's preference for military tribunals over regular courts — helps create a free license for tyranny in Africa. It helps justify Egypt's move to detain human rights campaigners as threats to national security and does the same for similar measures by the governments of Ivory Coast, Cameroon and Burkina Faso." Available at http://www.iht.com/ihtsearch.php?id=109927&owner=(IHT)&dat e=20030121123259. In our uni-polar world, the United States obviously sets an important example on these issues. As reflected in the foundational documents of the United Nations and many other such agreements, the international community has consistently affirmed the value of an independent judiciary to the defense of universally recognized human rights. In the crucible of actual practice within nations, many have looked to the United States model when developing independent judiciaries with the ability to check executive power in the defense of individual rights. Yet others have justified abuses by reference to the conduct of the United States. Far more influential than the words of Montesquieu and Madison are the actions of the United States. This case starkly presents the question of which model this Court will set for the world.

#### A detention court is crucial to the preservation of US democratic ideals

Glenn Sulmasy 9, Associate Professor of Law at the United States Coast Guard Academy and was a National Security and Human Rights Fellow at the Carr Center, Harvard Kennedy School, April 13, “THE NEED FOR A NATIONAL SECURITY COURT SYSTEM”, PDF

CONCLUSION¶ A new, statutorily created National Security Court system would afford an opportunity for U.S. policy makers to respond forcefully and effectively to both domestic and international calls for a way out of the myriad problems associated with the current system. Rather than have no credible solution, or merely engaging in attacks against the existing structure, policy makers need to emerge with fresh new ways to look at the proper detention and adjudication of captured al Qaeda fighters. It is time for the United States to regain the initiative and reaffirm our leadership in the humane prosecution of terrorists, a group that wishes to undermine the ideals of democracy. There is no better way to protect the ideals of democracy than to prosecute terrorists in a manner that is consistent with the democratic ideals that they seek to destroy. At a minimum, the next administration and Congress needs to create a commission to examine the possibilities that such a National Security Court system might afford.

#### That resolves future GITMO-like problems and is modeled globally

Anthony L. Kimery 9, Homeland Security Today's Online Editor and Online Media Division manager, draws on 30 years of experience and extensive contacts as he investigates homeland security, counterterrorism and border security, citing Glenn Sulmasy, first permanent commissioned military law professor at the Coast Guard Academy, where he is a Professor of Law teaching international, constitutional, and criminal law, "The Case For A 'National Security Court'", December 3, [www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html](http://www.hstoday.us/blogs/the-kimery-report/blog/the-case-for-a-national-security-court/a9333d82c11cecd35e74c8c0b65c2698.html)

However, in interviews with HSToday.us, Sulmasy argued that “we have to be aware that the issue of captured fighters will not go away once GITMO is closed - it will continue with the Bagram detainees and other inevitable captures in the generational conflict against international terrorism.”¶ So, “rather than creating opportunities for ‘forum shopping’ - either employing military commissions for some and civilian courts for others - the nation needs ‘one’ system - a hybrid system that meets all needs associated with the unique legal status of these detainees” – and all future combatants captured or arrested in the WOAQ, Sulmasy argues.¶ Sulmasy insists that a National Security Court “offers the United States a ‘way out’ of GITMO-like problems” in the future.¶ In the July 2007 HSToday.us report, Toward a Homeland Security Court for Captured Terrorists, Sulmasy’s ideas about how best to resolve the dilemma GITMO and the Military Commissions Act (MCA) created were first discussed in detail. They are rooted in the spacious realization that the war on terrorism inherently presents complex new legalities as a consequence of the unparalleled, un-conventional war on terrorists - and it is a war.¶ Sulmasy says the approach he proposes would not only restore respect for America’s system of justice and legitimize the judicial handling of WOAQ prisoners, but it would serve as a template for other nations to emulate.¶ “Another need for [national security] courts is to deal with the latest issues,” Sulmasy explained. “US citizens who turn their backs on the government and seek to overthrow it by engaging in jihad right now are treated differently than jihadists from other countries. A homeland security court would remove this disparity … We cannot, once again, allow the sleeping giant to go back to sleep. We must remain vigilant and recognize that how we deal with the detention of the Al Qaeda jihadists [and like-minded jihadists] is critical to our winning this long war."¶ The Bush administration and Congress unquestionably rushed to conceive an ill-thought-out post-9/11 process for legally meting out the fate of suspected terrorists captured during combat in the WOAQ. But now the US requires a new judicial system for this new non-state war that likely will continue to be waged for decades to come, proponents for this system like Sulmasy argue.¶ “I think they were right, initially: We were being attacked and expecting flurries of attacks over the next few years … five to six years later, however, we need to look at fresh options,” Sulmasy said.

#### Global democratic transitions are inevitable---the only way for the US to bolster democracies is constitutionalism---prevents war

Fareed Zakaria 97, PhD Poli Sci @ Harvard, Managing Editor of Foreign Affairs, 1997, Lexis

Of course cultures vary, and different societies will require different frameworks of government. This is not a plea for the wholesale adoption of the American way but rather for a more variegated conception of liberal democracy, one that emphasizes both parts of that phrase. Before new policies can be adopted, there lies an intellectual task of recovering the constitutional liberal tradition, central to the Western experience and to the development of good government throughout the world. Political progress in Western history has been the result of a growing recognition over the centuries that, as the Declaration of Independence puts it, human beings have "certain inalienable rights" and that "it is to secure these rights that governments are instituted." If a democracy does not preserve liberty and law, that it is a democracy is a small consolation. LIBERALIZING FOREIGN POLICY A proper appreciation of constitutional liberalism has a variety of implications for American foreign policy. First, it suggests a certain humility. While it is easy to impose elections on a country, it is more difficult to push constitutional liberalism on a society. The process of genuine liberalization and democratization is gradual and long-term, in which an election is only one step. Without appropriate preparation, it might even be a false step. Recognizing this, governments and nongovernmental organizations are increasingly promoting a wide array of measures designed to bolster constitutional liberalism in developing countries. The National Endowment for Democracy promotes free markets, independent labor movements, and political parties. The U.S. Agency for International Development funds independent judiciaries. In the end, however, elections trump everything. If a country holds elections, Washington and the world will tolerate a great deal from the resulting government, as they have with Yeltsin, Akayev, and Menem. In an age of images and symbols, elections are easy to capture on film. (How do you televise the rule of law?) But there is life after elections, especially for the people who live there. Conversely, the absence of free and fair elections should be viewed as one flaw, not the definition of tyranny. Elections are an important virtue of governance, but they are not the only virtue. Governments should be judged by yardsticks related to constitutional liberalism as well. Economic, civil, and religious liberties are at the core of human autonomy and dignity. If a government with limited democracy steadily expands these freedoms, it should not be branded a dictatorship. Despite the limited political choice they offer, countries like Singapore, Malaysia, and Thailand provide a better environment for the life, liberty, and happiness of their citizens than do either dictatorships like Iraq and Libya or illiberal democracies like Slovakia or Ghana. And the pressures of global capitalism can push the process of liberalization forward. Markets and morals can work together. Even China, which remains a deeply repressive regime, has given its citizens more autonomy and economic liberty than they have had in generations. Much more needs to change before China can even be called a liberalizing autocracy, but that should not mask the fact that much has changed. Finally, we need to revive constitutionalism. One effect of the overemphasis on pure democracy is that little effort is given to creating imaginative constitutions for transitional countries. Constitutionalism, as it was understood by its greatest eighteenth century exponents, such as Montesquieu and Madison, is a complicated system of checks and balances designed to prevent the accumulation of power and the abuse of office. This is done not by simply writing up a list of rights but by constructing a system in which government will not violate those rights. Various groups must be included and empowered because, as Madison explained, "ambition must be made to counteract ambition." Constitutions were also meant to tame the passions of the public, creating not simply democratic but also deliberative government. Unfortunately, the rich variety of unelected bodies, indirect voting, federal arrangements, and checks and balances that characterized so many of the formal and informal constitutions of Europe are now regarded with suspicion. What could be called the Weimar syndrome -- named after interwar Germany's beautifully constructed constitution, which failed to avert fascism -- has made people regard constitutions as simply paperwork that cannot make much difference. (As if any political system in Germany would have easily weathered military defeat, social revolution, the Great Depression, and hyperinflation.) Procedures that inhibit direct democracy are seen as inauthentic, muzzling the voice of the people. Today around the world we see variations on the same majoritarian theme. But the trouble with these winner-take-all systems is that, in most democratizing countries, the winner really does take all. DEMOCRACY'S DISCONTENTS We live in a democratic age. Through much of human history the danger to an individual's life, liberty and happiness came from the absolutism of monarchies, the dogma of churches, the terror of dictatorships, and the iron grip of totalitarianism. Dictators and a few straggling totalitarian regimes still persist, but increasingly they are anachronisms in a world of global markets, information, and media. There are no longer respectable alternatives to democracy; it is part of the fashionable attire of modernity. Thus the problems of governance in the 21st century will likely be **problems within democracy**. This makes them more difficult to handle, wrapped as they are in the mantle of legitimacy. Illiberal democracies gain legitimacy, and thus strength, from the fact that they are reasonably democratic. Conversely, the greatest danger that illiberal democracy poses -- other than to its own people -- is that it will discredit liberal democracy itself, casting a shadow on democratic governance. This would not be unprecedented. Every wave of democracy has been followed by setbacks in which the system was seen as inadequate and new alternatives were sought by ambitious leaders and restless masses. The last such period of disenchantment, in Europe during the interwar years, was seized upon by demagogues, many of whom were initially popular and even elected. Today, in the face of a spreading virus of illiberalism, the most useful role that the international community, and most importantly the United States, can play is -- instead of searching for new lands to democratize and new places to hold elections -- to consolidate democracy where it has taken root and to encourage the gradual development of constitutional liberalism across the globe. Democracy without constitutional liberalism is not simply inadequate, but dangerous, bringing with it the erosion of liberty, the abuse of power, ethnic divisions, and even war. Eighty years ago, Woodrow Wilson took America into the twentieth century with a challenge, to make the world safe for democracy. As we approach the next century, our task is to make democracy safe for the world.

#### Democratic backsliding causes great power war

Azar Gat 11, the Ezer Weizman Professor of National Security at Tel Aviv University, 2011, “The Changing Character of War,” in The Changing Character of War, ed. Hew Strachan and Sibylle Scheipers, p. 30-32

Since 1945, the decline of major great power war has deepened further. Nuclear weapons have concentrated the minds of all concerned wonderfully, but no less important have been the institutionalization of free trade and the closely related process of rapid and sustained economic growth throughout the capitalist world. The communist bloc did not participate in the system of free trade, but at least initially it too experienced substantial growth, and, unlike Germany and Japan, it was always sufﬁciently large and rich in natural resources to maintain an autarky of sorts. With the Soviet collapse and with the integration of the former communist powers into the global capitalist economy, the prospect of a major war within the developed world seems to have become very remote indeed. This is one of the main sources for the feeling that war has been transformed: its geopolitical centre of gravity has shifted radically. The modernized, economically developed parts of the world constitute a ‘zone of peace’. War now seems to be conﬁned to the less-developed parts of the globe, the world’s ‘zone of war’, where countries that have so far failed to embrace modernization and its pacifying spin-off effects continue to be engaged in wars among themselves, as well as with developed countries.¶ While the trend is very real, one wonders if the near disappearance of armed conﬂict within the developed world is likely to remain as stark as it has been since the collapse of communism. The post-Cold War moment may turn out to be a ﬂeeting one. The probability of major wars within the developed world remains low—because of the factors already mentioned: increasing wealth, economic openness and interdependence, and nuclear deterrence. But the deep sense of change prevailing since 1989 has been based on the far more radical notion that the triumph of capitalism also spelled the irresistible ultimate victory of democracy; and that in an afﬂuent and democratic world, major conﬂict no longer needs to be feared or seriously prepared for. This notion, however, is fast eroding with the return of capitalist non-democratic great powers that have been absent from the international system since 1945. Above all, there is the formerly communist and fast industrializing authoritarian-capitalist China, whose massive growth represents the greatest change in the global balance of power. Russia, too, is retreating from its postcommunist liberalism and assuming an increasingly authoritarian character.¶ Authoritarian capitalism may be more viable than people tend to assume. 8 The communist great powers failed even though they were potentially larger than the democracies, because their economic systems failed them. By contrast, the capitalist authoritarian/totalitarian powers during the ﬁrst half of the twentieth century, Germany and Japan, particularly the former, were as efﬁcient economically as, and if anything more successful militarily than, their democratic counterparts. They were defeated in war mainly because they were too small and ultimately succumbed to the exceptional continental size of the United States (in alliance with the communist Soviet Union during the Second World War). However, the new non-democratic powers are both large and capitalist. China in particular is the largest player in the international system in terms of population and is showing spectacular economic growth that within a generation or two is likely to make it a true non-democratic superpower.¶ Although the return of capitalist non-democratic great powers does not necessarily imply open conﬂict or war, it might indicate that the democratic hegemony since the Soviet Union’s collapse could be short-lived and that a universal ‘democratic peace’ may still be far off. The new capitalist authoritarian powers are deeply integrated into the world economy. They partake of the development-open-trade-capitalist cause of peace, but not of the liberal democratic cause. Thus, it is crucially important that any protectionist turn in the system is avoided so as to prevent a grab for markets and raw materials such as that which followed the disastrous slide into imperial protectionism and conﬂict during the ﬁrst part of the twentieth century. Of course, the openness of the world economy does not depend exclusively on the democracies. In time, China itself might become more protectionist, as it grows wealthier, its labour costs rise, and its current competitive edge diminishes.¶ With the possible exception of the sore Taiwan problem, China is likely to be less restless and revisionist than the territorially conﬁned Germany and Japan were. Russia, which is still reeling from having lost an empire, may be more problematic. However, as China grows in power, it is likely to become more assertive, ﬂex its muscles, and behave like a superpower, even if it does not become particularly aggressive. The democratic and non-democratic powers may coexist more or less peacefully, albeit warily, side by side, armed because of mutual fear and suspicion, as a result of the so-called ‘security dilemma’, and against worst-case scenarios. But there is also the prospect of more antagonistic relations, accentuated ideological rivalry, potential and actual conﬂict, intensiﬁed arms races, and even new cold wars, with spheres of inﬂuence and opposing coalitions. Although great power relations will probably vary from those that prevailed during any of the great twentieth-century conﬂicts, as conditions are never quite the same, they may vary less than seemed likely only a short while ago.

#### Independently, the plan prevents eroding checks on executive power that creates global dissident crack-down

Matthew C Waxman 9, Professor of Law; Faculty Chair, Roger Hertog Program on Law and National Security, Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 58

Opponents and skeptics of administrative detention rightly point out that creating new mechanisms for detention with procedural protections that are diluted compared with those granted criminal suspects may put liberty at risk. The most obvious concern is that innocent individuals will get swept up and imprisoned— the “false positive” problem. Civil libertarians rightly worry too that aside from the specific risk to particular individuals, any expansion of administrative detention— and I say “expansion” because, as noted earlier, it already exists in some nonterrorist contexts in U.S. law— risks eroding the checks on state power more generally. To some, the idea of administrative detention of suspected terrorists is the kind of “loaded weapon” that Justice Robert Jackson worried about at the time of Japanese internment. 52 Even if critics are satisfied that the U.S. government can use administrative detention responsibly, there are many unsavory foreign regimes that will not. The United States therefore needs to be cautious about justifying principles that might be used by less democratic regimes as a pretext to crack down, for example, on dissidents that they label “terrorists” or “national security threats.”

#### Chinese crackdowns on Uighurs make them stronger and cause Asian war

Dr. Elizabeth Van Wie Davis 8, division director and professor of liberal arts and international studies at Colorado School of Mines, 2008, "Uyghur Muslim Ethnic Separatism in Xinjiang, China," Asian Affairs: An American Review, 2008, Vol. 35, Issue 1, pg. 15-30, ebsco

Alternative Futures¶ The scenario most worrisome to the Chinese would be the Uyghur Muslim movement in Xinjiang externally joining with international Muslim movements throughout Asia and the Middle East, bringing an influx of Islamic extremism and a desire to challenge the central government. The Chinese also fear the Uyghur movement could internally radicalize other minorities, whether the ethnic Tibetans or the Muslim Hui. Beijing is currently successfully managing the separatist movements in China, but the possibility of increased difficulty is linked partly to elements outside Chinese control, such as political instability or increased Islamic extremism in neighboring Pakistan, Afghanistan, Tajikistan, Kyrgyzstan, and Kazakhstan. Chinese policies and reactions, however, will largely determine the progress of separatist movements in China. If “strike hard” campaigns are seen to discriminate against nonviolent Uyghurs and if the perception that economic development in Xinjiang aids Han Chinese at the expense of Uyghurs, the separatist movements will be fueled.¶ The whole region has concerns about growing Uyghur violence. Central Asian countries, especially those with sizable Uyghur minorities, already worry about Uyghur violence and agitation. Many of the regional governments, especially secular authoritarian governments in South Asia and Central Asia, are worried about the contagion of increasing Muslim radicalization. The governments of Southeast Asia are also worried about growing radical networks and training camps, but they also fear the idea of a fragmenting China. Political instability in China would impact all of Asia.

#### Asian war goes nuclear---no defense---interdependence and institutions don’t check

C. Raja Mohan 13, distinguished fellow at the Observer Research Foundation in New Delhi, March 2013, Emerging Geopolitical Trends and Security in the Association of Southeast Asian Nations, the People’s Republic of China, and India (ACI) Region,” background paper for the Asian Development Bank Institute study on the Role of Key Emerging Economies, <http://www.iadb.org/intal/intalcdi/PE/2013/10737.pdf>

Three broad types of conventional conflict confront Asia. The first is the prospect of war between great powers. Until a rising PRC grabbed the attention of the region, there had been little fear of great power rivalry in the region. The fact that all major powers interested in Asia are armed with nuclear weapons, and the fact that there is growing economic interdependence between them, has led many to argue that great power conflict is not likely to occur. Economic interdependence, as historians might say by citing the experience of the First World War, is not a guarantee for peace in Asia. Europe saw great power conflict despite growing interdependence in the first half of the 20th century. Nuclear weapons are surely a larger inhibitor of great power wars. Yet we have seen military tensions build up between the PRC and the US in the waters of the Western Pacific in recent years. The contradiction between the PRC’s efforts to limit and constrain the presence of other powers in its maritime periphery and the US commitment to maintain a presence in the Western Pacific is real and can only deepen over time.29 We also know from the Cold War that while nuclear weapons did help to reduce the impulses for a conventional war between great powers, they did not prevent geopolitical competition. Great power rivalry expressed itself in two other forms of conflict during the Cold War: inter-state wars and intra-state conflict. If the outcomes in these conflicts are seen as threatening to one or other great power, they are likely to influence the outcome. This can be done either through support for one of the parties in the inter-state conflicts or civil wars. When a great power decides to become directly involved in a conflict the stakes are often very high. In the coming years, it is possible to envisage conflicts of all these types in the ACI region. ¶ Asia has barely begun the work of creating an institutional framework to resolve regional security challenges. Asia has traditionally been averse to involving the United Nations (UN) in regional security arrangements. Major powers like the PRC and India are not interested in “internationalizing” their security problems—whether Tibet; Taipei,China; the South China Sea; or Kashmir—and give other powers a handle. Even lesser powers have had a tradition of rejecting UN interference in their conflicts. North Korea, for example, prefers dealing with the United States directly rather than resolve its nuclear issues through the International Atomic Energy Agency and the UN. Since its founding, the involvement of the UN in regional security problems has been rare and occasional.¶ The burden of securing Asia, then, falls squarely on the region itself. There are three broad ways in which a security system in Asia might evolve: collective security, a concert of major powers, and a balance of power system.30 Collective security involves a system where all stand for one and each stands for all, in the event of an aggression. While collective security systems are the best in a normative sense, achieving them in the real world has always been difficult. A more achievable goal is “cooperative security” that seeks to develop mechanisms for reducing mutual suspicion, building confidence, promoting transparency, and mitigating if not resolving the sources of conflict. The ARF and EAS were largely conceived within this framework, but the former has disappointed while the latter has yet to demonstrate its full potential. ¶ A second, quite different, approach emphasizes the importance of power, especially military power, to deter one’s adversaries and the building of countervailing coalitions against a threatening state. A balance of power system, as many critics of the idea point out, promotes arms races, is inherently unstable, and breaks down frequently leading to systemic wars. There is growing concern in Asia that amidst the rise of Chinese military power and the perception of American decline, many large and small states are stepping up their expenditure on acquiring advanced weapons systems. Some analysts see this as a structural condition of the new Asia that must be addressed through deliberate diplomatic action. 31 A third approach involves cooperation among the great powers to act in concert to enforce a broad set of norms—falling in between the idealistic notions of collective security and the atavistic forms of balance of power. However, acting in concert involves a minimum level of understanding between the major powers. The greatest example of a concert is the one formed by major European powers in the early 18th century through the Congress of Vienna after the defeat of Napoleonic France. The problem of adapting such a system to Asia is the fact that there are many medium-sized powers who would resent any attempt by a few great powers to impose order in the region.32 In the end, the system that emerges in Asia is likely to have elements of all the three models. In the interim, though, there are substantive disputes on the geographic scope and the normative basis for a future security order in Asia.

#### Independently, the plan reinvigorates due process in detention

Amos N. Guiora 12, Professor of Law, S.J. Quinney College of Law, University of Utah, "Due Process and Counterterrorism", Emory International Law Review, Vol. 26, www.law.emory.edu/fileadmin/journals/eilr/26/26.1/Guiora.pdf

While the public safety exception has been recommended as applicable to counterterrorism as justification for denying Miranda protections to post-9/11 detainees, 111 the danger of trampling on individual rights outweighs information that interrogators may conceivably receive. The rule of law is at its most vulnerable in the interrogation setting; to that extent, while public safety may be perceived as beneficial to society, the possible gain is, at best, short term with long-term dangers looming in the offing.¶ V. JUDICIAL FORUMS¶ The fundamental premise is that detainees must be afforded the opportunity to be brought before a court of law for purpose of adjudication of their guilt or innocence. Whether the paradigm adopted is the criminal law or a hybrid, the guiding principle must be trial rather than the abyss of permanent indefinite detention. While various proposals and articles have been put forth, 112 resolution has eluded decision-makers. The Bush Administration’s attempt 113 to establish military commissions was roundly criticized. 114 While subsequent instructions prepared by the Department of Defense 115 were intended to mollify the chorus of criticism, the practical reality is the commissions have been widely viewed as an overwhelming failure. 116 Neither in their original inception nor subsequent tweaking were rules, procedures, and criteria adequately delineated with respect to suspect (and subsequently, defendant) rights. 117 Nevertheless, the largely acknowledged failure of the military commissions has not resulted in the establishment of a viable alternative.¶ To that end, in addition to the military commissions, there are three options for bringing individuals suspected of involvement in terrorism before a court of law: treaty-based international terror court, Article III civilian court, and a national security court. While I have advocated the establishment of the latter, the other options have also garnered significant—and justified—public support. 118 The critical question, in determining which option most effectively meets rule of law requirements, is whether the due process rights of the defendant are protected. That question, however, cannot be asked nor answered in a vacuum, nor absolutely; for the reality of terrorism/counterterrorism is that legitimate operational realities justify minimizing certain rights, otherwise protected. 119 In particular, with respect to the trial process, protecting confidential sources is an absolute state requirement, and to that end, denying the defendant the right to confront all witnesses is legitimate. 120 Although controversial and suggestive of a rights minimization regime, bringing a suspected terrorist to trial requires submitting confidential information to the court. 121¶ While introducing classified information denies the defendant the right to confront his accuser, it is a reality of operational counterterrorism. 122 Similarly, in the American criminal law paradigm, the defendant has the right to a trial by a jury of his peers. 123 While proponents of Article III courts say they are appropriate for suspected terrorists, the critical question—yet to be resolved— is whether all individuals detained post-9/11 are to be tried. To the point: while President Obama promised to close Guantanamo, the issue extends significantly beyond the detention center in Cuba. 124 According to senior military commanders, the United States, directly and indirectly, detains approximately 25,000 detainees in detention centers in Iraq and Afghanistan in addition to Guantanamo. 125¶ While some have suggested that the Iraqi and Afghan judiciaries are appropriate forums for adjudicating guilt of detainees presently detained in both countries, significant and sufficient doubt has been raised regarding objectivity and judicial fairness. 126 Precisely because the Bush Administrations have ordered the American military to engage in Iraq and Afghanistan in accordance with the Authorization to Use Military Force resolution passed by Congress, the United States bears direct responsibility for ensuring adjudication in a court of law premised on the “rule of law.” 127 Simply put: core principles of due process and fundamental fairness demand the United States ensure resolution of individual accountability.¶ While imposing American judicial norms on Iraq and Afghanistan raise legitimate international law questions regarding violations of national sovereignty, the continued denial of due process raises questions and concerns no less legitimate. History suggests there is no perfect answer to this question; similarly, both basic legal principles and fundamental moral considerations suggest that in a balancing analysis the scale must tip in favor of trial, regardless of valid sovereignty and constitutional concerns. While justice is arguably not blind, continued detention of thousands of suspects without hope of trial is a blight on society that violates core due process principles.¶ Regardless of which proposal above is adopted, the fundamental responsibility is to articulate and implement a judicial policy facilitating trial before an impartial court of law. That is the minimum due process obligation owed the detainee. ¶ VI. MOVING FORWARD¶ Due process is the essence of a proper judicial process; denial of due process, whether in interrogation or trial, violates both the Constitution and moral norms. Denying suspects and defendants due process protections results in counterterrorism measures antithetical to the essence of democracies. While threats posed by terrorism must not be ignored, there is extraordinary danger in failing to carefully distinguish between real and perceived threats. Casting an extraordinarily wide net results in denying the individual rights; similarly, there is no guarantee that such an appr oach contributes to effective operational counterterrorism. Extending constitutional privileges and protections to non- citizens does not threaten the nation-state; rather, it illustrates the already slippery slope. In proposing that due process be an inherent aspect of counterterrorism, I am in full accordance with Judge Bates’ holding. The time has come to implement his words in spirit and law alike; habeas hearings are an important beginning but do not ensure adjudication of individual accountability. Determining innocence or guilt is essential to effective counterterrorism predicated on the rule of law.

#### That spills over to immigration detention policy

Farha Aziz Faisal 12, Harvard graduate with honors in Government, “Due Process Protections in the War on Terrorism: A Comparative Analysis of Security - Based Preventive Detention in the United States and the United Kingdom”, March, http://www.gov.harvard.edu/files/IR%20thesis%202.pdf

Overall, this thesis provides insight into how the structure of political institutions interacts with legal frameworks during emergencies to contribute to the formulation of preventive detention systems. Beyond explaining the mechanisms of such interactions, this thesis contributes to an understanding of how political structures impact human r ights within the broader context of security policy making. The findings of this investigation are instructive for answering a number of questions regarding the relationship between decision-making and the protection of human rights.¶ Beyond the theoretic al contributions of this study, this research has significant real - world implications. Given the rise of global terrorism within the past decade, states may need to create preventive detention systems. The findings of this research can identify the processes of such decision - making and selection of legal framework that are likely to result in preventive detention with sufficient due process protections for terrorist suspects. This is more important than ever before since an increase in the level of terrorism worldwide suggests that more suspects, including many innocent individuals, could be detained for purely security reasons. Accordingly, it is vital that states adopt detention systems that protect the fundamental human right to due process guaranteed under the rule of law. Moreover, the findings of this research can be generalized beyond security-detention, to the policy - formulation of detention regimes relating to immigration detention, pre-trial detention, and health-based quarantines. In each of these areas, the policy implications from this research could provide meaningful input in creating systems sensitive to and protective of due process.

#### Immigrant detainee rights are the key issue for US-Mexico relations

Roberto Lovato 9, a New York-based contributing Associate Editor with New America Media and a frequent contributor to The Nation Magazine. He's also written for the Los Angeles Times, Salon, Der Spiegel, Utne Magazine, La Opinion, and other national and international media outlets. He has also appeared as a source and commentator on English and Spanish language network news shows on Univision, CNN, PBS and other programs and made a recent appearance on Bill Moyers Journal. Lovato was the former Executive Director of CARECEN, which was the largest immigrant rights organization in the country, 2/26/09, “U.S. Immigration Policies Bring Global Shame on Us”, <http://ofamerica.wordpress.com/2009/02/26/us-immigration-policies-bring-global-shame-on-us/>

The proliferation of stories in international media and in global forums about the Guantanamo-like problems in the country’s immigrant detention system- death, abuse and neglect at the hands of detention facility guards; prolonged and indefinite detention of immigrants (including children and families) denied habeas corpus and other fundamental rights; filthy, overcrowded and extremely unhealthy facilities; denial of basic health services – are again tarnishing the U.S. image abroad, according to several experts. As a result, reports from Arizona and immigrant detention facilities have created a unique problem: they are making it increasingly difficult for Obama to persuade the planet’s people that the United States is ready claim exceptional leadership on human rights in a soon-to-be-post-Guantanamo world. Consider the case of Mexico. Just last week, following news reports from Arizona, the Mexican government, which is traditionally silent or very tepid in its criticism of U.S. immigration and other policies, issued a statement in which it “energetically protested the undignified way in which the Mexicans were transferred to ‘Tent City’” in Maricopa County. David Brooks, U.S correspondent for Mexico’s La Jornada newspaper, believes that immigrant detention stories hit Mexicans closer to home because those reportedly being abused in detention are not from a far off country; they are family, friends, neighbors and fellow citizens. In the same way that Guantanamo erased the idea of U.S. leadership in human rights in the Bush era, says Brooks, who was born in Mexico, practices in immigrant detention facilities like those reported by global media in Maricopa County may begin to do so in the Obama era if something does not change. “Mexicans have never seen the U.S. as a great model for promotion of human rights. But with Obama we take him at his word. We’re expecting some change,” said Brooks. “But that will not last long if we see him continuing Bush’s [immigration] policies: raids, increasing detention, deportation. Regardless of his excuse, he will quickly become mas de lo mismo (more of the same) in terms of the experience down south.” If uncontested, the expression of such sentiments far beyond Mexico and Mexican immigrants could lead to the kind of American exceptionalism Obama doesn’t want. In a March 2008 report, Jorge Bustamante, the United Nations Special Rapporteur on Human Rights of Migrants, concluded that “the United States has failed to adhere to its international obligations to make the human rights of the 37.5 million migrants living in the country a national priority, using a comprehensive and coordinated national policy based on clear international obligations.” Asked how his report was received in different countries, Bustamante said, “The non-governmental organizations have really responded. In the United States and outside the United States- in Mexico, in Guatemala, in Indonesia and other countries- NGO’s are using my report to frame their concerns and demands in their own countries- and to raise criticism about the United States.” For her part, Alison Parker, deputy director of the U.S. program of Human Rights Watch, fears a global government “race to the bottom” around immigrant detention policies. “My concern is that as the rest of world sees the United States practices, we increase the risk that this will give the green light to other governments to be just as abusive or more abusive as the United States.” If there is a positive note to be heard in the growing global chorus of critique of and concern about U.S immigration policy, it is to be found among those human rights activists and groups doing what W.E.B. DuBois, Paul Robeson and other civil rights activists did in previous eras: bring their issues to the global stage. Government documents from the civil rights era, documents that were released just a few years ago, illustrate how members of the Kennedy and Johnson State departments and even Kennedy and Johnson themselves were acutely aware of and sensitive to how denunciations in global forums of racial discrimination in United States had a devastating impact on the U.S. prestige abroad. Such a situation around the rights of migrants today, says Oscar Chacon of the National Alliance of Latin American and Caribbean Communities, a Chicago-based global NGO run by and for immigrants, creates an opportunity out of the globalization of the images of both Sheriff Joe Arpaio and Barack Obama. “The world will be able to see him as the rogue sheriff that he is” said Chacon, who was in Mexico City attending a conference on immigration at which U.S. detention practices were criticized. “And it will be up to the Obama Administration to show the world that Arpaio is not a symbol of the rest of the country when it comes to immigration.”

#### That determines overall Latin American relations

Pamela K. Starr 9, adjunct fellow specializing in Mexico at the Pacific Council on International Policy, “Mexico and the United States: A Window of Opportunity?”, Pacific Council on International Policy, April 2009, http://www.pacificcouncil.org/pdfs/Mexico\_and\_the\_United\_States.pdf

Mexican sentiment toward the United States matters. If Mexicans mistrust the United States, question what our country stands for, and feel treated like a second-class ally, it will be difficult for Washington to foster a cooperative relationship that extends beyond drugs and trade. Further, without a cooperative relationship with its nearest Latin American neighbor it will be difficult for the United States to improve relations with the rest of the region. And as demonstrated by the expansion of Chinese investment, Russian military sales and naval maneuvers, Iranian diplomatic visits, and Hugo Chávez’ s regional sway, U.S. influence in the Latin American region can no longer be taken for granted. The election of a new U.S. president dedicated to increased reliance on multilateralism, support for human rights and democracy, and listening to the concerns of our allies, and devoted to increasing the role of diplomacy in American foreign policy is a key component of the previously noted window of opportunity for U.S.-Mexico relations. These promised features of an Obama foreign policy have created a well of enthusiasm and hope in Mexico for the future of Mexico’s relations with the United States. In this context, small symbolic acts can have an outsized positive impact on the bilateral relationship. These could include the following: • Follow through on the Obama administration’s early promises of partnership and “co- responsibility” for shared policy challenges. Mexico is accustomed to hearing new administrations in Washington point to a natural partnership with Mexico and call for renewed attention to bilateral concerns only to redirect their attention when seemingly more pressing international concerns arise. While the Mexican reaction to Secretary Clinton’s trip was strikingly positive, it was tempered by a “wait-and-see” attitude informed by a long history of unfulfilled promises emanating from the north. Giving the pressing nature of many of our bilateral challenges, the United States cannot afford to turn away from Mexico once again. • Actively work to redefine Mexico – in the minds of policy makers and of U.S. citizens – as an opportunity rather than a problem. As long as Americans think of Mexico as mostly a source of problems for the United States, mustering congressional support for policies that advance U.S. national interests by “helping Mexico” will remain a hard sell. This redefinition should include an expansion of cultural and educational exchanges between the two countries, enlisting celebrities as informal diplomats, and promoting contact and communication among non-governmental actors on both sides of the border. Potentially most important, Washington must carefully guard its rhetoric about Mexico to avoid disparaging statements that ultimately do harm to U.S. national interests. • Sustain the initial flurry of meetings among high-level government officials. Follow up meetings motivated by the security situation in Mexico with regular consultations between U.S. administration officials and their Mexican counterparts on the full spectrum of bilateral issues in which conversation reflects an attitude of partnership, bilateral cooperation, the genuine exchange of ideas and concerns, and the desire to find shared solutions to common problems. As useful as North American trilateral meetings are, U.S. officials should not rely on them as a substitute for direct exchanges with leaders in Mexico City.

#### That’s necessary for a successful Energy and Climate Partnership of the Americas

Guy [Edwards](http://www.intercambioclimatico.com/pt-br/author/guy/) 11, Research fellow @ [Brown University’s Center for Environmental Studies](http://envstudies.brown.edu/), Researcher for and works with the [Latin American Platform on Climate](http://www.intercambioclimatico.com/en/2011/02/17/latin-american-platform-on-climate-strategy-2010/) and the [Climate and Development Knowledge Network](http://cdkn.org/), “Climate, energy to dominate US-Latin American relations,” Thomson Reuters Foundation - Mon, 18 Jul 2011 11:14 AM, pg. http://www.trust.org/item/?map=climate-energy-to-dominate-us-latin-american-relations/

With the challenges of climate change, clean energy, resource scarcity and green growth [are] set to dominate U.S.-Latin American relations, Valenzuela’s successor should have experience in these areas. ¶ These issues are a [priority](http://www.state.gov/p/wha/rls/rm/2011/154105.htm) for the Obama administration and present lucrative opportunities for the U.S. to improve trade and commercial relations with Latin America at a time when the region is a magnet for investment in clean energy.¶ In Chile, President Barack Obama spoke of the [urgency](http://www.whitehouse.gov/the-press-office/2011/03/21/remarks-president-obama-latin-america-santiago-chile) of tackling climate change and embracing a more secure and sustainable energy future in the Americas. The Energy and Climate Partnership of the Americas (ECPA), which aims to accelerate the deployment of clean energy and advance energy security, is an essential component of hemispheric relations.¶ Multiple U.S. agencies and departments are carrying out extensive work on climate change. The U.S. Agency for International Development (USAID), which runs the Global Climate Change Initiative, [argues](http://www.usaid.gov/our_work/environment/climate/) that climate change is one of the century’s greatest challenges and will be a diplomatic and development priority.¶ The U.S. Special Envoy for Climate Change, Todd [Stern](http://www.ecpamericas.org/files/events/Todd_Stern_20100416_eng.pdf), says that Latin America is a significant focus of funding with over $60 million spent in 2009-10 on climate-related bilateral assistance in the region. The U.S. military Southern Command [co-hosted](http://www.intercambioclimatico.com/en/2011/07/14/wp-content/uploads/Civil-Military-Collaboration-to-Address-Adaptation-to-Climate-Change-in-South-America.pdf) two events in Colombia and Peru focused on climate change concluding that the issue is a major security concern and as a result could be a powerful vehicle for U.S. military engagement in the region.¶ This year the Union of South American Nations’ (UNASUR) Defense Council (CDS) [inaugurated](http://en.mercopress.com/2011/05/23/unasur-defence-strategic-studies-centre-opens-this-week-in-buenos-aires) the new Defense Strategic Studies Center (CEED), which will look at various challenges including the protection of strategic [energy](http://www.rpp.com.pe/2011-05-27-ministros-de-defensa-de-unasur-piden-proteger-recursos-estrategicos-noticia_369675.html) and food resources and adapting to [climate change](http://www.google.com/hostednews/epa/article/ALeqM5jwR9CJoQuzRwgF3cGM48NV0LuyOA?docId=1538629).¶ THE REGION’S RESOURCES¶ Latin America and the Caribbean boast incredible and highly coveted natural resources including 25 percent of the planet’s arable land, 22 percent of its forest area, [and] 31 percent of its freshwater, 10 percent of its oil, 4.6 percent of its natural gas, 2 percent of coal reserves and 40 percent of its copper and silver reserves.¶ The International Energy Agency [forecasts](http://www.nytimes.com/2011/06/16/business/energy-environment/16oil.html?_r=2) that in the future world consumers are going to become more dependent on the Americas to satisfy their demand for oil with Brazil, Colombia, the U.S. and Canada set to meet the demand.¶ Brazil will host the U.N. [Conference on Sustainable Development](http://www.uncsd2012.org/rio20/) in 2012 with the green economy theme topping the agenda. Peter [Hakim](http://www.thedialogue.org/page.cfm?pageID=32&pubID=2679), president emeritus of Inter-American Dialogue, argues that while U.S.-Brazilian relations are fraught, both countries need to work harder to improve cooperation.¶ Climate change, clean energy, resource scarcity and green growth are key potential areas for U.S.-Brazilian relations. The launch of a [U.S](http://www.whitehouse.gov/the-press-office/2011/03/19/united-states-and-brazil-fact-sheets).[-Brazilian Strategic Energy Dialogue](http://www.whitehouse.gov/the-press-office/2011/03/19/united-states-and-brazil-fact-sheets), focusing on cooperation on biofuels and renewable energy, among other areas, is a productive start.¶ Although Latin America and the Caribbean continue to be the largest U.S. export market, the U.S.’s share of the region’s imports and exports has [dropped](http://www.eclac.org/publicaciones/xml/4/42854/2011_195_Highlights_of_economics_and_trade_WEB.pdf) over the last few years. China is now the top destination for the [exports](http://www.eclac.cl/comercio/publicaciones/xml/4/43664/People_Republic_of_China_and_Latina_America_and_the_Caribbean_trade.pdf) of Argentina, Venezuela, Brazil, Chile, Costa Rica, Peru and Uruguay. Latin American exports to China are concentrated in raw materials, which account for nearly [60 percent](http://www.eclac.cl/comercio/publicaciones/xml/4/43664/People_Republic_of_China_and_Latina_America_and_the_Caribbean_trade.pdf), while exports to the U.S. are more diversified.¶ THE RISE OF CHINA¶ Arturo Valenzuela [says](http://www.miamiherald.com/2011/05/25/2236198/washington-says-its-not-scared.html) this makes Latin Americans better off trading with the U.S. because they can take advantage of greater technology in the value chain. However, crude oil remained the top [export](http://www.eclac.org/cgi-bin/getProd.asp?xml=/publicaciones/xml/4/42854/P42854.xml&xsl=/comercio/tpl/p9f.xsl&base=/tpl/top-bottom.xsl) to the U.S. for Argentina, Brazil, Colombia, Ecuador, Mexico and Venezuela in the 2007-2009 time period.¶ The U.S. may assert it has a superior trade model to China, but the U.N.’s economic commission for the region [argues](http://www.eclac.org/publicaciones/xml/4/42854/2011_195_Highlights_of_economics_and_trade_WEB.pdf) there is a perceived lack of strategic vision by the U.S. in Latin America. Although the Energy and Climate Partnership of the Americas (ECPA) is the flagship U.S. initiative in the region and will be a key focus for President Obama at the 2012 Summit of the Americas, it is not yet comparable to past initiatives such as the 1960s-era [Alliance for Progress](http://en.wikipedia.org/wiki/Alliance_for_Progress).

#### ECPA facilitates sustainable development globally

Daniel M. Kammen 12, Professor of Energy at UC Berkeley and Diego Ponce de Leon Barido, Doctoral student in the Energy and Resources Group at UC Berkeley who has done research on Latin American water management and ecosystem services, “[Building Bridges to a Sustainable Energy Future](http://www.greatenergychallengeblog.com/2012/12/05/building-bridges-to-a-sustainable-energy-future/),” National Geographic, December 5, http://www.greatenergychallengeblog.com/2012/12/05/building-bridges-to-a-sustainable-energy-future/

The Americas are undergoing a transition in the energy sector that will have global geopolitical ramifications. At the same time as the United States is touted to become the world’s largest oil producer by 2020, and a net exporter by 2030, Brazil, Nicaragua, and Panama show the most promise in becoming regional hubs not only for clean energy investment, but for sustained low-carbon economic growth (see related story: “[U.S. to Overtake Saudi Arabia, Russia as World’s Top Energy Producer](http://news.nationalgeographic.com/news/energy/2012/11/121112-iea-us-saudi-oil/)“).¶ Although Latin America and the Caribbean lag behind the United States and Canada in terms of implemented clean energy policy and project funding, 7 percent of the region’s total installed capacity today is renewables, and it is expected to grow faster in years to come. (See related interactive map: [“The Global Electricity Mix](http://environment.nationalgeographic.com/environment/energy/great-energy-challenge/world-electricity-mix/)“) Faced with ever-changing economic and political realities, regional collaborations for knowledge-creation and -sharing are crucial for fostering lasting partnerships that can make ‘sustainability science’, well, sustainable.¶ International partnerships that lead to concrete action are often the clearest signs of innovation. At the state to state level, the [Energy and Climate Partnership for the Americas](http://www.ecpamericas.org) (ECPA) and at the person-to-person level, the Fulbright [NEXUS](http://www.cies.org/nexus/) program provide clear evidence regional collaborations that are clearly changing the modes of engagement within the hemisphere. One of us just returned from a partnership-building ECPA sponsored trip to Nicaragua, facilitated by both the U. S. Embassy team and a local NGO, [blueEnergy](http://www.blueenergygroup.org/?lang=en), which is discussed below and [here](http://www.partnersoftheamericas.net/2012/08/senior-ecpa-fellow-returns-from.html), focused on community energy.¶ Just two years after its launch by President Obama in 2009, ECPA has moved beyond its initial focus on knowledge sharing around cleaner and more efficient energy, and now also supports sustainable forest and land use initiatives as well as climate change adaptation strategies. Governments and institutions such as the Organization of American States (OAS), the World Bank, and the Inter-American Development Bank (IDB), have all worked together to support regional technical workshops, business strategies, and other initiatives for new and cleaner ways to provide energy. ECPA has also become a vehicle for leaders in sustainability research and practice to work at the institutional level to link industry, university, and civil-society groups in the New World.

#### Prevents extinction

Dr. Glen Barry 13, Political ecologist with expert proficiencies in old forest protection, climate change, and environmental sustainability policy, Ph.D. in "Land Resources" and Masters of Science in "Conservation Biology and Sustainable Development” from the University of Wisconsin-Madison, “ECOLOGY SCIENCE: Terrestrial Ecosystem Loss and Biosphere Collapse,” Forests.org, February 4, 2013, pg. http://forests.org/blog/2013/02/ecology-science-terrestrial-ec.asp

Blunt, Biocentric Discussion on Avoiding Global Ecosystem Collapse and Achieving Global Ecological Sustainability  
Science needs to do a better job of considering worst-case scenarios regarding continental- and global-scale ecological collapse. The loss of biodiversity, ecosystems, and landscape connectivity reviewed here shows clearly that ecological collapse is occurring at spatially extensive scales. The collapse of the biosphere and complex life, or eventually even all life, is a possibility that needs to be better understood and mitigated against. A tentative case has been presented here that terrestrial ecosystem loss is at or near a planetary boundary. It is suggested that a 66% of Earth's land mass must be maintained in terrestrial ecosystems, to maintain critical connectivity necessary for ecosystem services across scales to continue, including the biosphere. Yet various indicators show that around 50% of Earth's terrestrial ecosystems have been lost and their services usurped by humans. Humanity may have already destroyed more terrestrial ecosystems than the biosphere can bear. There exists a major need for further research into how much land must be maintained in a natural and agroecological state to meet landscape and bioregional sustainable development goals while maintaining an operable biosphere.   
It is proposed that a critical element in determining the threshold where terrestrial ecosystem loss becomes problematic is where landscape connectivity of intact terrestrial ecosystems erodes to the point where habitat patches exist only in a human context. Based upon an understanding of how landscapes percolate across scale, it is recommended that 66% of Earth's surface be maintained as ecosystems; 44% as natural intact ecosystems (2/3 of 2/3) and 22% as agroecological buffer zones. Thus nearly half of Earth must remain as large, connected, intact, and naturally evolving ecosystems, including old-growth forests, to provide the context and top-down ecological regulation of both human agroecological, and reduced impact and appropriately scaled industrial activities.  
Given the stakes, it is proper for political ecologists and other Earth scientists to willingly speak bluntly if we are to have any chance of averting global ecosystem collapse. A case has been presented that Earth is already well beyond carrying capacity in terms of amount of natural ecosystem habitat that can be lost before the continued existence of healthy regional ecosystems and the global biosphere itself may not be possible. Cautious and justifiably conservative science must still be able to rise to the occasion of global ecological emergencies that may threaten our very survival as a species and planet.   
Those knowledgeable about planetary boundaries – and abrupt climate change and terrestrial ecosystem loss in particular – must be more bold and insistent in conveying the range and possible severity of threats of global ecosystem collapse, while proposing sufficient solutions. It is not possible to do controlled experiments on the Earth system; all we have is observation based upon science and trained intuition to diagnose the state of Earth's biosphere and suggest sufficient ecological science–based remedies.  
If Gaia is alive, she can die. Given the strength of life-reducing trends across biological systems and scales, there is a need for a rigorous research agenda to understand at what point the biosphere may perish and Earth die, and to learn what configuration of ecosystems and other boundary conditions may prevent her from doing so. We see death of cells, organisms, plant communities, wildlife populations, and whole ecosystems all the time in nature – extreme cases being desertification and ocean dead zones. There is no reason to dismiss out of hand that the Earth System could die if critical thresholds are crossed. We need as Earth scientists to better understand how this may occur and bring knowledge to bear to avoid global ecosystem and biosphere collapse or more extreme outcomes such as biological homogenization and the loss of most or even all life. To what extent can a homogenized Earth of dandelions, rats, and extremophiles be said to be alive, can it ever recover, and how long can it last?  
The risks of global ecosystem collapse and the need for strong response to achieve global ecological sustainability have been understated for decades. If indeed there is some possibility that our shared biosphere could be collapsing, there needs to be further investigation of what sorts of sociopolitical responses are valid in such a situation. Dry, unemotional scientific inquiry into such matters is necessary – yet more proactive and evocative political ecological language may be justified as well. We must remember we are speaking of the potential for a period of great dying in species, ecosystems, humans, and perhaps all being. It is not clear whether this global ecological emergency is avoidable or recoverable. It may not be. But we must follow and seek truth wherever it leads us.  
Planetary boundaries have been quite anthropocentric, focusing upon human safety and giving relatively little attention to other species and the biosphere's needs other than serving humans. Planetary boundaries need to be set that, while including human needs, go beyond them to meet the needs of ecosystems and all their constituent species and their aggregation into a living biosphere. Planetary boundary thinking needs to be more biocentric.  
I concur with Williams (2000) that what is needed is an Earth System–based conservation ethic – based upon an "Earth narrative" of natural and human history – which seeks as its objective the "complete preservation of the Earth's biotic inheritance." Humans are in no position to be indicating which species and ecosystems can be lost without harm to their own intrinsic right to exist, as well as the needs of the biosphere. For us to survive as a species, logic and reason must prevail (Williams 2000).   
Those who deny limits to growth are unaware of biological realities (Vitousek 1986). There are strong indications humanity may undergo societal collapse and pull down the biosphere with it. The longer dramatic reductions in fossil fuel emissions and a halt to old-growth logging are put off, the worse the risk of abrupt and irreversible climate change becomes, and the less likely we are to survive and thrive as a species. Human survival – entirely dependent upon the natural world – depends critically upon both keeping carbon emissions below 350 ppm and maintaining at least 66% of the landscape as natural ecological core areas and agroecological transitions and buffers. Much of the world has already fallen below this proportion, and in sum the biosphere's terrestrial ecosystem loss almost certainly has been surpassed, yet it must be the goal for habitat transition in remaining relatively wild lands undergoing development such as the Amazon, and for habitat restoration and protection in severely fragmented natural habitat areas such as the Western Ghats.   
The human family faces an unprecedented global ecological emergency as reckless growth destroys the ecosystems and the biosphere on which all life depends. Where is the sense of urgency, and what are proper scientific responses if in fact Earth is dying? Not speaking of worst-case scenarios – the collapse of the biosphere and loss of a living Earth, and mass ecosystem collapse and death in places like Kerala – is intellectually dishonest. We must consider the real possibility that we are pulling the biosphere down with us, setting back or eliminating complex life.  
The 66% / 44% / 22% threshold of terrestrial ecosystems in total, natural core areas, and agroecological buffers gets at the critical need to maintain large and expansive ecosystems across at least 50% of the land so as to keep nature connected and fully functional. We need an approach to planetary boundaries that is more sensitive to deep ecology to ensure that habitable conditions for all life and natural evolutionary change continue. A terrestrial ecosystem boundary which protects primary forests and seeks to recover old-growth forests elsewhere is critical in this regard. In old forests and all their life lie both the history of Earth's life, and the hope for its future. The end of their industrial destruction is a global ecological imperative.   
Much-needed dialogue is beginning to focus on how humanity may face systematic social and ecological collapse and what sort of community resilience is possible. There have been ecologically mediated periods of societal collapse from human damage to ecosystems in the past (Kuecker and Hall 2011). What makes it different this time is that the human species may have the scale and prowess to pull down the biosphere with them. It is fitting at this juncture for political ecologists to concern themselves with both legal regulatory measures, as well as revolutionary processes of social change, which may bring about the social norms necessary to maintain the biosphere. Rockström and colleagues (2009b) refer to the need for "novel and adaptive governance" without using the word revolution. Scientists need to take greater latitude in proposing solutions that lie outside the current political paradigms and sovereign powers.  
Even the Blue Planet Laureates' remarkable analysis (Brundtland et al. 2012), which notes the potential for climate change, ecosystem loss, and inequitable development patterns neither directly states nor investigates in depth the potential for global ecosystem collapse, or discusses revolutionary responses. UNEP (2012) notes abrupt and irreversible ecological change, which they say may impact life-support systems, but are not more explicit regarding the profound human and ecological implications of biosphere collapse, or the full range of sociopolitical responses to such predictions. More scientific investigations are needed regarding alternative governing structures optimal for pursuit and achievement of bioregional, continental, and global sustainability if we are maintain a fully operable biosphere forever. An economic system based upon endless growth that views ecosystems necessary for planetary habitability primarily as resources to be consumed cannot exist for long.   
Planetary boundaries offer a profoundly difficult challenge for global governance, particularly as increased scientific salience does not appear to be sufficient to trigger international action to sustain ecosystems (Galaz et al. 2012). If indeed the safe operating space for humanity is closing, or the biosphere even collapsing and dying, might not discussion of revolutionary social change be acceptable? Particularly, if there is a lack of consensus by atomized actors, who are unable to legislate the required social change within the current socioeconomic system. By not even speaking of revolutionary action, we dismiss any means outside the dominant growth-based oligarchies.   
In the author's opinion, it is shockingly irresponsible for Earth System scientists to speak of geoengineering a climate without being willing to academically investigate revolutionary social and economic change as well. It is desirable that the current political and economic systems should reform themselves to be ecologically sustainable, establishing laws and institutions for doing so. Yet there is nothing sacrosanct about current political economy arrangements, particularly if they are collapsing the biosphere. Earth requires all enlightened and knowledgeable voices to consider the full range of possible responses now more than ever.   
One possible solution to the critical issues of terrestrial ecosystem loss and abrupt climate change is a massive and global, natural ecosystem protection and restoration program – funded by a carbon tax – to further establish protected large and connected core ecological sustainability areas, buffers, and agro-ecological transition zones throughout all of Earth's bioregions. Fossil fuel emission reductions must also be a priority. It is critical that humanity both stop burning fossil fuels and destroying natural ecosystems, as fast as possible, to avoid surpassing nearly all the planetary boundaries.   
In summation, we are witnessing the collective dismantling of the biosphere and its constituent ecosystems which can be described as ecocidal. The loss of a species is tragic, of an ecosystem widely impactful, yet with the loss of the biosphere all life may be gone. Global ecosystems when connected for life's material flows provide the all-encompassing context within which life is possible. The miracle of life is that life begets life, and the tragedy is that across scales when enough life is lost beyond thresholds, living systems die.

### 1AC – Plan

#### The United States federal government should create a National Security Court with exclusive jurisdiction over the United States’ indefinite detention policy.

### 1AC – Solvency

#### CONTENTION 3: SOLVENCY

#### Congressional creation of a National Security Court is crucial to restore legitimacy and rule of law in detention

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

In the context of the War on Terror, legitimacy is the critical missing element under the current U.S. detention regime. Legitimacy can be defined as “a psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just.” 50 As far back as Plato and Aristotle, philosophers have recognized that influencing others merely through coercion and power is costly and inefficient. 51 Today, empirical evidence suggests that legitimacy, rather than deterrence, is primarily what causes individuals to obey the law. 52 Thus, while legal authorities may possess the immediate power to stop illegal action, long-term compliance requires that the general public perceives the law to be legitimate. 53 Terrorism is primarily an ideological war that cannot be won by technology that is more sophisticated or increased military force. 54 While nations combating terrorism must continue to address immediate threats by detaining suspected terrorists, they must also consider the prevention of future threats by analyzing how their policies are perceived by individuals throughout the world. Ultimately, in the War on Terror, “the benefits to be derived from maximizing legitimacy are too important to neglect.” 55¶ Over time, perceptions of legitimacy create a “reservoir of support” for an institution that goes beyond mere self -interest. 56 In the context of government:¶ Legitimacy is [an] endorphin of the democratic body politic; it is the substance that oils the machinery of democracy, reducing the friction that inevitably arises when people are not able to get everything they want from politics. Legitimacy is loyalty; it is a reservoir of goodwill that allows the institutions of government to go against what people may w ant at the moment without suffering debilitating consequences. 57¶ The widespread acceptance of highly controversial decisions by the U.S. Supreme Court illustrates the power of institutional legitimacy. 58 The Court itself noted that it “cannot buy support for its decisions by spending money and, except to a minor degree, it can- not independently coerce obedience to its decrees.” 59 “The Court’s power lies, rather, in its legitimacy . . . .” 60 For example, by empha- sizing “equal treatment,” “honesty and neutrality,” “gathering infor- mation before decision making,” and “making princip led, or rule based, decisions instead of political decisions,” the Court maintained legitimacy through the controversial abortion case Planned Parent- hood of Southeastern Pennsylvania v. Casey in 1992 . 61 Thus, al- though approximately half of Americans oppose abort ion, 62 the vast majority of these individuals give deference to the Court’s ruling on this issue. 63¶ In the post-World War II era, the United States built up a world- wide reservoir of support based upon four pillars: “its commitment to international law, its acceptance of consensual decision-making, its reputation for moderation, and its identification with the preservation of peace.” 64 Although some U.S. policies between 1950 and 2001 did not align with these pillars, on a whole the United States legitimized itself as a world superpower during this period. 65 In the 1980s, President Ronald Reagan spoke of America as a “shining city on a hill,” suggesting that it was a model for the nations of the world to look to. 66 While the United States received a virtually unprecedented outpouring of support from the international community following 9/11, a nation’s reservoir of support will quickly evaporate when its government overreacts. Across the globe, individuals have expressed a growing dissatisfaction with U.S. conduct in the War on Terror, and by 2006, even western allies of the Uni ted States lobbied for the immediate closure of Guantanamo Bay, callin g it “an embar- rassment.” 67 Former Secretary of State Colin Powell proclaimed that “Guantanamo has become a major, major problem . . . in the way the world perceives America and if it were up to me I would close Guantanamo not tomorrow but this afternoon . . . .” 68 Similarly, President Obama noted in his campaign that “Guantanamo has become a recruiting tool for our enemies.” 69¶ Current U.S. detention policies erode each of the four pillars on which the United States established global legitimacy. In fact, critics have argued that the “United States has assumed man y of the very features of the ‘rogue nations’ against which it has rhetorically—and sometimes literally—done battle over the years.” 70 While legitimacy cannot be regained overnight, the recent election o f President Barack Obama presents a critical opportunity for a re-articulation of U.S. detention policies. Although President Obama issued an executive order calling for the closure of Guantanamo Bay only two days after being sworn into office, 71 significant controversy remains about the kind of alternate detention system that will replace it. 72 In contrast to the current model, which has largely rendered in efficient decisions based on ad hoc policies, I argue for the establishment of a domestic terror court (DTC) created specifically to deal with the unique procedural issues created by a growing number of suspected terrorists.

#### The court’s procedural justice is vital to solve

David Welsh 11, J.D. from the University of Utah, “Procedural Justice Post-9/11: The Effects of Procedurally Unfair Treatment of Detainees on Perceptions of Global Legitimacy”, http://law.unh.edu/assets/images/uploads/publications/unh-law-review-vol-09-no2-welsh.pdf

Recent research highlights two reasons why procedural justice may be particularly important in the context of detentions. First, judgments of procedural fairness are particularly important to individuals experiencing uncertainty. 83 Detainees lack the procedural certainties guaranteed in a regular criminal proceeding in that they frequently do not know how long they will be held, why they are being held, what evidence exists against them, and what degree of punishment they may face. 84 Second, the greater the unfavorableness of the outcome and the larger the potential ha rm, the more individuals care about fair process. 85 These findings are reflected in U.S. criminal law provisions requiring certain elements of procedural due process when serious sanctions are involved. 86¶ It is also critical to extend procedural justice judgments beyond the individual detainee to the perspective of a worldwide audience. While it is easy to overlook how an alleged terrori st feels about the degree of procedural fairness he or she is receivin g, the perceptions of governments, human rights organizations, politic al groups (in- cluding terrorist organizations), and millions of individuals (particu- larly those who closely identify with that individu al’s race, religion, or nationality) cannot be ignored. Individuals become upset when they observe unfairness, and such observations motivate them to help victims of this unfairness. 87 Thus, it would be a mistake to think that procedural injustice against a single in dividual will affect the perceptions of that individual alone. 88 Additionally, efforts to hide procedural injustices, such as the abuse of detainees by U.S. soldiers, 89 have only backfired by creating sympathy for the types of individuals that the United States seeks to dehumanize. 90 In the next section, I identify six rules of procedural justice, evaluate the current detention regime based on these rules, and make recommendations about how these rules could be implemented in a DTC model.

# 2AC

### Legitimacy Adv

#### No burnout

**Torrey and Yolken 5** E. Fuller and Robert H, Directors Stanley Medical Research Institute, 2005, Beasts of the Earth: Animals, Humans and Disease, pp. 5-6

The outcome of this marriage, however, is not as clearly defined as it was once thought to be. For many years, it was believed that microbes and human slowly learn to live with each other as microbes evolve toward a benign coexistence wit their hosts. Thus, the bacterium that causes syphilis was thought to be extremely virulent when it initially spread among humans in the sixteenth century, then to have slowly become less virulent over the following three centuries. This reassuring view of microbial history has recently been challenged by Paul Ewald and others, who have questioned whether microbes do necessarily evolve toward long-term accommodation with their hosts. Under certain circumstances, Ewald argues, “Natural selection may…favor the evolution of extreme harmfulness if the exploitation that damages the host [i.e. disease] enhances the ability of the harmful variant to compete with a more benign pathogen.” The outcome of such a “marriage” may thus be the murder of one spouse by the other. In eschatological terms, this view argues that a microbe such as HIV or SARS virus may be truly capable of eradicating the human race.

### Risk

#### Ethical policymaking requires calculation of our impacts—refusing consequentialism allows atrocity in the name of ethical purity

Nikolas Gvosdev, ‘5 (Nikolas, Exec Editor of The National Interest, The Value(s) of Realism, SAIS Review 25.1, Muse)  
As the name implies, realists focus on promoting policies that are achievable and sustainable. In turn, the morality of a foreign policy action is judged by its results, not by the intentions of its framers. A foreign policymaker must weigh the consequences of any course of action and assess the resources at hand to carry out the proposed task. As Lippmann warned, Without the controlling principle that the nation must maintain its objectives and its power in equilibrium, its purposes within its means and its means equal to its purposes, its commitments related to its resources and its resources adequate to its commitments, it is impossible to think at all about foreign affairs.8 Commenting on this maxim, Owen Harries, founding editor of The National Interest, noted, "This is a truth of which Americans—more apt to focus on ends rather than means when it comes to dealing with the rest of the world—need always to be reminded."9 In fact, Morgenthau noted that "there can be no political morality without prudence."10 This virtue of prudence—which Morgenthau identified as the cornerstone of realism—should not be confused with expediency. Rather, it takes as its starting point that it is more moral to fulfill one's commitments than to make "empty" promises, and to seek solutions that minimize harm and produce sustainable results. Morgenthau concluded: [End Page 18] Political realism does not require, nor does it condone, indifference to political ideals and moral principles, but it requires indeed a sharp distinction between the desirable and the possible, between what is desirable everywhere and at all times and what is possible under the concrete circumstances of time and place.11 This is why, prior to the outbreak of fighting in the former Yugoslavia, U.S. and European realists urged that Bosnia be decentralized and partitioned into ethnically based cantons as a way to head off a destructive civil war. Realists felt this would be the best course of action, especially after the country's first free and fair elections had brought nationalist candidates to power at the expense of those calling for inter-ethnic cooperation. They had concluded—correctly, as it turned out—that the United States and Western Europe would be unwilling to invest the blood and treasure that would be required to craft a unitary Bosnian state and give it the wherewithal to function. Indeed, at a diplomatic conference in Lisbon in March 1992, the various factions in Bosnia had, reluctantly, endorsed the broad outlines of such a settlement. For the purveyors of moralpolitik, this was unacceptable. After all, for this plan to work, populations on the "wrong side" of the line would have to be transferred and resettled. Such a plan struck directly at the heart of the concept of multi-ethnicity—that different ethnic and religious groups could find a common political identity and work in common institutions. When the United States signaled it would not accept such a settlement, the fragile consensus collapsed. The United States, of course, cannot be held responsible for the war; this lies squarely on the shoulders of Bosnia's political leaders. Yet Washington fell victim to what Jonathan Clarke called "faux Wilsonianism," the belief that "high-flown words matter more than rational calculation" in formulating effective policy, which led U.S. policymakers to dispense with the equation of "balancing commitments and resources."12 Indeed, as he notes, the Clinton administration had criticized peace plans calling for decentralized partition in Bosnia "with lofty rhetoric without proposing a practical alternative." The subsequent war led to the deaths of tens of thousands and left more than a million people homeless. After three years of war, the Dayton Accords—hailed as a triumph of American diplomacy—created a complicated arrangement by which the federal union of two ethnic units, the Muslim-Croat Federation, was itself federated to a Bosnian Serb republic. Today, Bosnia requires thousands of foreign troops to patrol its internal borders and billions of dollars in foreign aid to keep its government and economy functioning. Was the aim of U.S. policymakers, academics and journalists—creating a multi-ethnic democracy in Bosnia—not worth pursuing? No, not at all, and this is not what the argument suggests. But aspirations were not matched with capabilities. As a result of holding out for the "most moral" outcome and encouraging the Muslim-led government in Sarajevo to pursue maximalist aims rather than finding a workable compromise that could have avoided bloodshed and produced more stable conditions, the peoples of Bosnia suffered greatly. In the end, the final settlement was very close [End Page 19] to the one that realists had initially proposed—and the one that had also been roundly condemned on moral grounds.

#### Debating risk analysis is key to averting lashouts

Langford 3 (Ian, Centre for Social and Economic Research on the Global Environment School of Environmental Sciences University of East Anglia and University College London, AN EXISTENTIAL APPROACH TO RISK PERCEPTION)

The above case studies show that other perspectives on risk perception can be gained by examining underlying existential anxieties, and existential analysis can provide a link between widely differing risk issues and across very different methodologies. Existential analysis is, of course, only one of a number of theoretical and practical approaches that can be taken towards risks, but it is potentially capable of transcending the difference between cultures and histories. Whilst the challenges and risks posed by living today in a techno-logically advanced society are very different from those faced a thousand years ago in the same geographical locations, the existential anxieties remain the same, as they are a common property of being human, although coping strategies may change somewhat. ‘Millenium anxiety’ in 1999 was not so different from that displayed in 999 AD.

Further, existential analysis can reflect on the societal challenges posed by ‘modern’ risks as well as the individual adaptations required in order to survive in the 21st century. Giddens (1991) links existential anxiety to loss of trust, and Beck (1999) comments on how the World Risk Society brings people together as well as separating them though the operation of the global political economy. There are winners and losers, but all are beginning to play on the same field. Although cross-cultural comparisons are not the focus of this paper, it is worth mentioning that from research conducted in the UK, and also in Greece (Kontogianni et al., 2001), it is possible to see the commonalities between at least these two cultures, as well as the differences. With regard to risks, respondents in the UK generally took a more individualistic ‘personal specialness’ approach, for example, in the research on perceptions of climate change, whilst in Greece respondents still held more belief in the divine order of things. Greek respondents often expressed a belief in θεοπρωνια (theo-pronia), which has no direct English translation, but can be interpreted as meaning that ‘if you do the right thing, God will give you luck’. So, for example, if you fish according to ‘natural laws’, God will make sure the fish don’t run out.……....in general, Greeks favoured the ‘ultimate rescuer’ defense.

In terms of the World Risk Society, and individual coping mechanisms, it appears that death anxiety is particularly prevalent when people consider their fears of the unknown and unknowable. The unknown is represented by uncertainties over the future, given the current rate of technological change, and conflicting messages received from the scientists, government and the media about a wide range of risk issues. The unknowable is represented by fear of the complexity of scientific knowledge, and its inaccessibility to lay people, as well as the complex and interwoven nature of many environmental and health risks. With many ‘20th century diseases’, such as allergic and immunocompetence conditions, traditional epidemiological methods of finding a single cause for a single disease fail because the 26 causes are multiple and synergistic, and the conditions ill-defined and variable between individuals.

Existential isolation anxiety is characterized by feelings of hopelessness and helplessness in the face of the global political economy, and the striving for ‘community’ or ‘togetherness’ is often founded on making joint protests or opting out of conventional lifestyles and discourses. This can sometimes lead to ‘idealistic tribalism’, which replaces ‘geographical tribalism’ via the sharing and reinforcement of common ideas amongst similar thinking people via the ease of modern day travel and information/communication technologies such as email and the internet. Alienation is often a matter of scale, with individuals feeling powerless in the face of world markets and international agreements. However, modern forms of communication and lifestyles and the social structures they support may themselves be alienating in containing little face-to-face human contact or ‘quality time’. Freedom and responsibility are again often framed in terms of not being subjugated by the global political economy or the discourses it promotes – the modern equivalent of Hiedegger’s impersonal ‘They-Self’. Individuals and groups can choose to opt out, give up, try their best, or carry on regardless – but it is always in opposition to or in collusion with political and economic forces seen as being at a scale beyond the individual’s power to change, and individual action is hence usually framed in terms of personal lifestyle choice to reduce risks, protect the environment or promote social equity.

Meaninglessness anxiety seems to be a common response in the World Risk Society. Identity and self-esteem are either maintained by small-scale successes, or reliance on being informed and using common sense, but pessimism, crusad-ism, nihilism and vegetativeness are all common responses to technological and environmental risks. Unfortunately, the great increase in information in techno-logical societies has created more confusion and, in the opinion of many people, devalued all information – leading to more reliance on ‘folklore’, lay epidemiology and ‘common sense’ to evaluate uncertain and ill-defined risks. Rebellion against political and institutional structures has often been reduced to stigmatization of particular organizations (such as the privatized water companies, see Langford et al., 1999a; Georgiou et al., 1998) or products (such as GM foods). This atomization of protest increases the sense of meaningless-ness, where one can only hope to achieve something small – and hence potentially meaningless – or else give up hope of things ever being different and merely find a comfortable way to survive the inevitable.

In conclusion, this paper has attempted, via theoretical argument, case studies and discussion, to present a different analysis of risk perception by individuals within social and political systems. Existential issues and anxieties, that are common to being human across space and time, have been explored whilst at the same time examining the relationship between humans and risk in contemporary post-industrial society. One conclusion that can be drawn from this analysis is that the range of individual and social responses to risk are symptomatic of far more global anxieties about the functioning and future of the world in general. Risk issues and conflicts are therefore not merely a product of a risk society, but an integral part of its operation. Only by providing people with a genuine chance to understand, have hope and believe in the possibility of instigating change, can risk managers provide risk communication strategies that actually communicate about risk. This is because of the complex and profound role that risk perception plays in structuring identities, defining discourses and bringing order and sense to the world. Otherwise, fear of the unknown, alienation, helplessness and reactions to these states of mind will always win the day.

#### Fear of extinction is a legitimate and productive response to the modern condition---working through it by validating our representations is the only way to create an authentic relationship to the world and death

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

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

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

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

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

### 2AC XO CP

#### Future presidents prevent solvency

Harvard Law Review 12, "Developments in the Law: Presidential Authority," Vol. 125:2057, www.harvardlawreview.org/media/pdf/vol125\_devo.pdf

The recent history of signing statements demonstrates how public opinion can effectively check presidential expansions of power by inducing executive self-binding. It remains to be seen, however, if this more restrained view of signing statements can remain intact, for **it relies on the promises of one branch — indeed of one person — to enforce and maintain the separation of powers**. To be sure, President Obama’s guidelines for the use of signing statements contain all the hallmarks of good executive branch policy: transparency, accountability, and fidelity to constitutional limitations. Yet, in practice, this apparent constraint (however well intentioned) may amount to little more than voluntary self-restraint. 146 Without a formal institutional check, it is unclear what mechanism will prevent the next President (or President Obama himself) from reverting to the allegedly abusive Bush-era practices. 147 Only time, and perhaps public opinion, will tell.

#### CP links to politics more

Billy Hallowell 13, writer for The Blaze, B.A. in journalism and broadcasting from the College of Mount Saint Vincent in Riverdale, New York and an M.S. in social research from Hunter College in Manhattan, “HERE’S HOW OBAMA IS USING EXECUTIVE POWER TO BYPASS LEGISLATIVE PROCESS” Feb. 11, 2013, <http://www.theblaze.com/stories/2013/02/11/heres-how-obamas-using-executive-power-to-bylass-legislative-process-plus-a-brief-history-of-executive-orders/>

“In an era of polarized parties and a fragmented Congress, the opportunities to legislate are few and far between,” Howell said. “So presidents have powerful incentive to go it alone. And they do.”¶ And the political opposition howls.¶ Sen. Marco Rubio, R-Fla., a possible contender for the Republican presidential nomination in 2016, said that on the gun-control front in particular, Obama is “abusing his power by imposing his policies via executive fiat instead of allowing them to be debated in Congress.”¶ The Republican reaction is to be expected, said John Woolley, co-director of the American Presidency Project at the University of California in Santa Barbara.¶ “For years there has been a growing concern about unchecked executive power,” Woolley said. “It tends to have a partisan content, with contemporary complaints coming from the incumbent president’s opponents.”

#### Congress key to democratic legitimacy and preventing future vacillation in executive policy

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, Stuart Taylor, an American journalist, graduated from Princeton University and Harvard Law School, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 329-330

While President Obama’s policy makes a clean break with the Bush record, it actually does not effectively answer the question of how best to handle this group. Indeed, the new policy seems likely to fail on both a substantive and a procedural level. First, it goes too far by banning all coercion all the time. Second, the rule is unstable because it can so easily be changed at the whim of the president, whether Obama or, perhaps, a successor more like Bush. An administration down the road that wanted to resume waterboarding could rescind the current order and adopt legal positions like those of the prior administration. Unless the Obama administration and Congress hammer out rules that provide interrogators with clear guidance about what is and is not allowed and write those rules into statute, the United States risks vacillating under the vagaries of current law between overly permissive and overly restrictive guidance. The general goals of new legislation should be threefold: —To make it a crime beyond cavil to use interrogation methods considered by reasonable people to be torture. The torture statute already does that to some degree, but the fact that it arguably permitted techniques as severe as waterboarding suggests that it may require some tightening. The key here is that the statute should cover all techniques the use of which ought to prompt criminal prosecution. —To subject CIA interrogators in almost all cases to rules that, without relaxing current law’s ban on cruel, inhuman, and degrading treatment, permit relatively mild forms of coercion that are properly off limits to military interrogators. —To allow the president, subject to strict safeguards, to authorize use of harsher methods short of torture (as defined in the revised criminal statute) in true emergencies or on extraordinarily high-value captives such as KSM. Only Congress can provide the democratic legitimacy and the fine-tuning of criminal laws that can deliver such a regime. Only Congress can, for example, pass a new law making it clear that waterboarding— or any other technique of comparable severity— will henceforth be a federal crime. Only Congress can offer clear assurances to operatives in the field that there exists a safe harbor against prosecution for conduct ordered by higher-ups in a crisis in the genuine belief that an attack may be around the corner. Only Congress, in other words, can create a regime that plausibly turns away from the past without giving up what the United States will need in the future.

#### Congressional power of the purse rolls back the CP

Fisher 4, Senior Specialist in Separation of Powers with the Congressional Research Service, LOC [Louis, Presidential War Power: Second Edition, Revised, p. 274-277]

Statutory Restrictions

Instead of relying on unpredictable court decisions, Congress must learn to invoke the powerful weapons at its command. Through its prerogative to¶ authorize programs and appropriate funds, it can define and limit presidential power. In domestic as well as in foreign affairs, Congress can withhold all or part of an appropriation and may attach riders to appropriations measures to proscribe certain actions.44¶ Some claim that the power of the purse is ineffective in restraining presidential wars. Senator Jacob Javits (R-N.Y.) said that Congress "can hardly cut off appropriations when 500,000 American troops are fighting for their lives, as in Vietnam."45 The short answer is that Congress can, and has, used the power of the purse to restrict presidential war power. If members of Congress are worried about American troops fighting for their lives in a futile war, those lives are not protected by voting for continued funding. The proper and responsible action is to terminate appropriations and bring the troops home. Members need to make that case to their constituents. It can be done.¶ The Supreme Court has held that the President as Commander in Chief "is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy."46 The power to move forces "placed by law" at his command implies that Congress can, by statute, control the scope of the commander-in-chief powers. Many such restrictions have been enacted. Following are some contemporary examples.¶ In 1973, Congress used the power of the purse to end the war in Vietnam. Three years later it prohibited the CIA from operating in Angola other than to gather intelligence. Legislation also prohibited the Agency from conducting military or paramilitary operations in Angola and denied any appropriated funds to finance directly or indirectly any type of military assistance to Angola.47¶ In 1984, Congress adopted the Boland Amendment to prohibit assistance of any kind by the Reagan administration to support the Contras in Nicaragua. The all-embracing language read: "During fiscal year 1985, no funds available to the Central Intelligence Agency, the Department of¶ Defense, or any other agency or entity of the United States involved in intelligence activities may be obligated or expended for the purpose or which would have the effect of supporting, directly or indirectly, military or paramilitary operations in Nicaragua by any nation, group, organization, movement, or individual." 48 No constitutional objection to this provision was ever voiced publicly by President Reagan, the White House, the Justice Department, or any other agency of the executive branch.¶ Two years later, Congress restricted the President's military role in Central America by stipulating that U.S. personnel "may not provide any training or other service, or otherwise participate directly or indirectly in the provision of any assistance, to the Nicaraguan democratic resistance pursuant to this title within those land areas of Honduras and Costa Rica which are within 20 miles of the border with Nicaragua."9 The statute defined U.S. personnel to mean "any member of the United States Armed Forces who is on active duty or is performing inactive duty training" and any employee of any department, agency, or other component of the executive branch.50 The clear purpose was to prevent military activities in Honduras and Costa Rica from spilling over into Nicaragua. The Reagan administration never offered any constitutional objections to this statutory restriction.¶ Also in 1986, Congress passed this prohibition on placing U.S. personnel in Nicaragua: "No member of the United States Armed Forces or employee of any department, agency, or other component of the United States Government may enter Nicaragua to provide military advice, training, or logistical support to paramilitary groups operating inside that country. Nothing in this title shall be construed as authorizing any member or unit of the Armed Forces of the United States to engage in combat against the government of Nicaragua.”51¶ In 1991, when Congress authorized President Bush to use military force against Iraq, the authority was explicitly linked to UN Security Council Resolution 678, which was adopted to expel Iraq from Kuwait.52 Thus, the legislation did not authorize any wider action, such as using U.S. forces to invade and occupy Iraq. In 1993, Congress established a deadline for troops to leave Somalia. No funds could be used for military action after March 31, 1994, unless the President requested an extension from Congress and received legislative authority.53

### 2AC Debt Ceiling DA

#### No deal---neither side will compromise

Jonathan Weisman 9-12, September 12th, 2013, "Boehner Seeks to Pull Obama Into Debt Ceiling Talks," New York Times, www.nytimes.com/2013/09/13/us/politics/at-meeting-with-treasury-secretary-boehner-pressed-for-debt-ceiling-deal.html

WASHINGTON — With the Syrian crisis receding on Capitol Hill, Congress on Thursday plunged back into its bitter fiscal standoff as Speaker John A. Boehner appealed to the Obama administration and Democratic leaders to help him resolve divisions in the Republican ranks that could lead to a government shutdown by month’s end.¶ In meetings with Democratic and Republican Congressional leaders on Thursday after a session with Treasury Secretary Jacob J. Lew on Wednesday, Mr. Boehner pleaded for a resumption of negotiations that could keep the government running and yield a deficit-reduction deal that would convince recalcitrant conservatives to raise the government’s borrowing limit.¶ Much of the federal government will shut down Oct. 1 unless Congress approves new spending bills to replace expiring ones, and by mid-October, the Treasury Department will lose the borrowing authority to finance the government and pay its debts.¶ “It’s time for the president’s party to show the courage to work with us to solve this problem,” Mr. Boehner said Thursday.¶ Just five scheduled legislative days stand between the House and a government shutdown that has loomed for months. As of now, Republican leaders appear to have no idea how to stop it.¶ Democrats held firm that they will no longer negotiate on raising the debt ceiling, which they see as the duty of the party in power in the House. And they made it clear to the speaker that they would never accept Republican demands to repeal, defund or delay President Obama’s signature health care law.¶ “I had to be very candid with him and I told him directly, all these things they’re doing on Obamacare is just a waste of their time,” said Senator Harry Reid of Nevada, the Senate majority leader. “Their direction is the direction toward shutting down the government.”¶ “I like John Boehner,” Mr. Reid added. “I do feel sorry for him.”¶ On Tuesday, Representative Eric Cantor of Virginia, the House majority leader, proposed a two-step resolution to the fiscal impasse that was temporarily pushed into the background by Mr. Obama’s now delayed request for approval to initiate a military strike on Syria.¶ Under Mr. Cantor’s plan, the House would have voted this week on a stopgap spending bill to keep the government operating through mid-December at the current level, which reflects sharp, across-the-board cuts known as sequestration. That bill would have a companion resolution to withhold all funding for the health care law, but the Senate could simply ignore that resolution and approve the short-term spending bill.¶ Then the House would vote to raise the debt ceiling enough for a year of borrowing but would demand a year’s delay in carrying out the health care law.¶ Within 24 hours, the House’s most ardent conservatives revolted, declaring the defunding resolution a transparent gimmick that fell well short of their drive to undo the health care law. Democrats said they would oppose not only stripping the health care law of money but also a funding level that maintains sequestration.¶ “The continued operation of the sequester is inimical to the interest of the United States, to the government, to the people and to international security,” said Representative Steny H. Hoyer of Maryland, the Democratic whip, who promised to keep his members in line.¶ That plan was delayed indefinitely as House Republicans struggle to find a measure that could at least unite the majority. Conservatives on Thursday pressed what they called a compromise: a one-year stopgap spending bill that would raise the debt ceiling for a year, delay all aspects of the health care law for a year, and give back some of the sequester cuts as a sweetener.¶ House conservatives insisted Thursday that was a deal Mr. Obama could accept.¶ “Why wouldn’t he say this thing is horrible, it’s still not ready for prime time?” asked Representative John Fleming, Republican of Louisiana.¶ Democrats scoffed. Mr. Reid called the succession of plans “juvenile political games” and suggested that many Republicans had lost touch with reality.

#### Healthcare fight prevents deal

Michael Bowman 9/12, VOA, "More US Fiscal Battles Loom", 2013, www.voanews.com/content/more-us-fiscal-battles-loom/1748716.html

CAPITOL HILL — After two weeks focused on the crisis in Syria, the U.S. Congress is turning its attention to looming fiscal deadlines. Unless lawmakers approve a funding extension, the federal government will shut down October 1. Unless they raise America’s debt limit weeks later, the United States risks default and another national credit downgrade. A partisan battle over President Barack Obama’s signature health care law presents a major stumbling block.¶ The president Thursday spelled out his fiscal priorities.¶ “That we are dealing properly with a federal budget, that bills are getting paid on time, that the full faith and credit of the United States is preserved," Obama said.¶ What stands in the way? A partisan fight over the Affordable Care Act, or as some call it, 'Obamacare,' which seeks to expand the number of Americans with health care insurance. A major component of Obamacare will be activated October 1.¶ Many Republicans who control the House of Representatives say they will vote down any spending bill unless Obamacare is de-funded.¶ "We are again taking steps to dismantle the president’s health care law, which is driving up the costs of health care, and making it harder for businesses to hire new workers," said House Speaker John Boehner.¶ Democrats, who control the Senate, pledge to oppose any spending bill that omits Obamacare funding.¶ “I hope he [Boehner] realizes that Democrats are not delaying Obamacare, that we certainly are not negotiating over the debt limits, and that it is insane to play partisan games with our nation’s economy," said Senate Budget Committee chairwoman Patty Murray..¶ Republican lawmakers have sought Obamacare’s demise since its enactment in 2010. With the law set to go into effect, many see upcoming fiscal fights as their last chance to succeed.¶ “A full repeal of this job-killing mess of a law. That is what it is," said Senate Republican leader Mitch McConnell.

#### PC low and fails for fiscal fights

Greg Sargent 9-12, September 12th, 2013, "The Morning Plum: Senate conservatives stick the knife in House GOP leaders," Washington Post, factiva

All of this underscores a basic fact about this fall's fiscal fights: Far and away the dominant factor shaping how they play out will be the divisions among Republicans. There's a great deal of chatter (see Senator Bob Corker for one of the most absurd examples yet) to the effect that Obama's mishandling of Syria has diminished his standing on Capitol Hill and will weaken him in coming fights. But those battles at bottom will be about whether the Republican Party can resolve its internal differences. Obama's "standing" with Republicans -- if it even could sink any lower -- is utterly irrelevant to that question.¶ The bottom line is that, when it comes to how aggressively to prosecute the war against Obamacare, internal GOP differences may be unbridgeable. Conservatives have adopted a deliberate strategy of deceiving untold numbers of base voters into believing Obamacare will be stopped outside normal electoral channels. Central to maintaining this fantasy is the idea that any Republican leader who breaks with this sacred mission can only be doing so because he or she is too weak and cowardly to endure the slings and arrows that persevering against the law must entail. GOP leaders, having themselves spent years feeding the base all sorts of lies and distortions about the law, are now desperately trying to inject a does of reality into the debate by pointing out that the defund-Obamacare crusade is, in political and practical terms alike, insane. But it may be too late. The time for injecting reality into the debate has long since passed.

#### Plan’s bipartisan---previous proposals prove support

Nick Sibilla 12, "Bipartisan effort to ban indefinite detention, amend the NDAA", May 18, www.constitutioncampaign.org/blog/?p=7479#.UjHhXz8uhuk

Democrats and Tea Party Republicans are advocating a new proposal to ban indefinite detention on American soil. After President Obama signed the National Defense Authorization Act (NDAA) last year, anyone accused of being a terrorist, committing any “belligerent act” or even providing “material support,” can now be detained indefinitely by the military without a trial. This includes American citizens.¶ Fortunately, a bipartisan coalition is working to stop the NDAA. Congressmen Adam Smith (D-WA), a Ranking Member of the House Armed Services Committee, and Justin Amash (R-MI), who Reason magazine called “the next Ron Paul,” have sponsored an amendment to the latest defense authorization bill, currently on the House floor.¶ If adopted, the Smith-Amash Amendment would make three significant changes to the NDAA. First, it would amend Section 1021 (which authorizes indefinite detention) to ensure that those detained will not be subject to military commissions, but civilian courts established under Article III of the Constitution. As Congressman Smith put it, this would “restore due process rights.”¶ Second, the Smith-Amash Amendment would ban “transfer to military custody:”¶ No person detained, captured, or arrested in the United States, or a territory or possession of the United States, may be transferred to the custody of the Armed Forces for detention…¶ Finally, their amendment would repeal Section 1022 of the NDAA, which mandates military custody for those accused of foreign terrorism.¶ Both Smith and Amash have criticized the NDAA. Amash blasted the NDAA as “one of the most anti-liberty pieces of legislation of our lifetime.” In a letter urging his Republican colleagues to support the amendment, Amash writes:¶ A free country is defined by the rule of law, not the government’s whim. Americans demand that we protect their right to a charge and trial.¶ Meanwhile, in an interview with The Hill, Smith was concerned about the potential abuses of power:¶ It is very, very rare to give that amount of power to the president [and] take away any person’s fundamental freedom and lock them up without the normal due process of law…Leaving this on the books is a dangerous threat to civil liberties.¶ The Smith-Amash Amendment is expected to be voted on later this week. So far, it has 60 co-sponsors in the House. Meanwhile, Senators Mark Udall (D-CO) and Patrick Leahy (D-VT) have introduced a similar bill in the Senate.

#### Syria will cost Obama PC and wreck the agenda, even without a vote

Naureen Khan, 9-11-2013, “Obama pays high political price for fumbling on Syria,” Aljazeera, http://america.aljazeera.com/articles/2013/9/11/obama-pays-high-politicalpriceforhandlingofsyria.html

The Obama administration may have found a temporary way to stave off defeat on the question of Syria, but the long-term political prognosis for the president’s handling of the crisis is dimmer: He will not emerge unscathed from one of the biggest foreign policy challenges of his time in office. For the moment, the administration has pulled back from its original proposal to launch limited air strikes against Syrian President Bashar al-Assad, in the face of mounting opposition on Capitol Hill and around the country. In a prime-time address Tuesday night, the president asked Congress to postpone votes on a possible strike as the administration vetted a diplomatic solution put forward by Russia at the United Nations that would allow Syria to avert the attack by turning over its chemical weapons stockpiles to international control. Nine senators, meanwhile, worked on an alternate resolution to put Congress’ stamp of approval on the new international plan. The speech on Tuesday night capped off weeks of dizzying developments on Syria during which Obama seemed to be walking a tightrope -- selling the idea of military force to a war-weary public and Congress while also feverishly trying to avoid it. “Obviously, this has not been well handled, and the president’s made a couple of 180-degree turns, from the 'red line' to doing nothing to then the military action, and now this diplomatic solution,” said Larry Sabato, political scientist at the University of Virginia. “Here’s his problem: Democrats, Republicans, conservatives, liberals, independents are all opposed to going into Syria. Good luck.” Sabato said that the diplomatic solution looks like the best exit strategy for the president but that there have already been holes punched in his credibility. “Some damage is done because he does look indecisive,” Sabato said. All probable resolutions are still rife with peril for a president who was elected, as he said last week, “to end wars, not start them.” Syria's War A diplomatic agreement with Russia and Syria will allow the White House to save face and scrap an intensely unpopular plan for military action but will almost certainly be viewed by some as a retreat. There are legitimate questions about how such disarmament would work in practice and whether Syria or Russia should be trusted. If Obama overrides Congress and pursues strikes over lawmakers' objections, he would burn all good will with a body he must work with to reach a deal on the debt ceiling and pass a budget in the fall. There would also almost certainly be increased rumblings about impeachment proceedings if, after extolling the virtues of a constitutional democracy, he decided to do as he wanted. Public-opinion polls showed disapproval of the strikes actually hardening as Obama pushed for authorization. A poll released by the Pew Research Center for the People and the Press Monday showed American opposition to the strikes surging within the last week from 48 percent to 63 percent. The president's approval rating is also in negative territory at 44 percent, with only a third of Americans favoring his approach to foreign policy -- an all-time low. Opponents of the administration seized on the less-than-flattering moment to criticize Obama's entire approach to engaging with the world as well as his blunders on Syria. “The world just hasn’t cooperated with the president’s vision or his hopes,” Senate Minority Leader Mitch McConnell, R-Ky., said on the Senate floor Tuesday shortly after announcing that he would oppose the strikes. “We’ve learned the hard way that being nice to our enemies doesn’t make them like you.” During a testy exchange at a House Armed Services Committee hearing Tuesday morning, Rep. Jeff Miller, R-Fla., rebuked Secretary of State John Kerry for the administration’s course changes. When Kerry said the Senate was delaying votes in light of a possible diplomatic resolution, Miller interjected, “Because they don’t have the votes, Mr. Secretary. That’s why they’ve delayed. You know that.“ Fire came from usually friendly quarters too. Liberal Sen. Bernie Sanders, I-Vt., assailed the president and Congress for not focusing on a domestic agenda. “What about our kids?” he asked. “What kind of future are they going to have in a country where the middle class continues to disappear?” Obama’s priorities are indeed on hold for the short term. Immigration reform has not been discussed at all this week, and even pressing debt-ceiling negotiations are on the back burner. Ron Bonjean, a former GOP aide to House and Senate leadership, said the president has weakened his hand on upcoming issues by burning his political capital on Syria. “If members of Congress are willing to stand up to him on Syria, and it looks like they can win, then there’s no reason they wouldn’t take him on other issues as well -- over the debt ceiling and the budget talks that will happen this fall,” said Bonjean. “Accidental diplomacy,” he said, was no way to exude leadership.

#### Energy floor debates pound the DA

Amy Harder 9/12, and Clare Foran, National Journal, "The Energy Debate That Wasn't", 2013, www.nationaljournal.com/daily/the-energy-debate-that-wasn-t-20130912?mrefid=mostViewed

The second day of the Senate's first floor debate on an energy bill in six years was marked by obstruction, opposition, and frustration.¶ Sen. David Vitter, R-La., held firm in his refusal to allow debate to move forward to an energy-efficiency bill until Senate leaders agree on a time to vote on his amendment related to President Obama's health care law. Vitter first interfered with the energy debate Wednesday afternoon, shortly after Senate Majority Leader Harry Reid, D-Nev., moved to the bill in place of the Syria resolution that was put on hold.¶ Vitter's stance put an uncontroversial measure with broad support on a difficult legislative obstacle course.¶ "Senators who have talked about energy policy for years and years now say they want to have their issues that are unrelated to energy advance today, even though they have the potential to undermine this bill," Senate Energy and Natural Resources Chairman Ron Wyden, D-Ore., said on the floor, showing clear frustration. "I don't know how that adds up, if you give a lot of speeches at home about sensible energy policy and then take steps to undermine it."¶ Wyden didn't name any names, but he didn't have to.¶ "Since they were all directed at my activity, I want to respond," said Vitter just moments after Wyden concluded his comments. "I have nothing against this bill, I applaud that work. I did hear a lot this summer—quite frankly, I didn't hear about this bill or any provision of this bill. But I'm not denigrating it."¶ Vitter isn't the only Republican seeking to pivot the debate. Senate Minority Leader Mitch McConnell, R-Ky., also filed an amendment to the energy bill seeking to delay a key part of Obamacare. He spoke about the amendment Thursday morning but didn't mention the energy bill at all.¶ A number of other Republican senators also used floor time to voice opposition to the health care law, including John Barrasso of Wyoming, Dan Coats of Indiana, and Jeff Flake of Arizona.¶ Among the GOP voices, Vitter's was the loudest. Whether senators will actually get to debate energy—even controversial issues like the Keystone XL pipeline and climate-change regulations—now hinges on whether Vitter either backs down from his amendment or comes to an agreement with Senate leaders on another path to vote on it down the road.¶ Even if a deal is reached with Vitter, more obstacles await. Sens. John Hoeven, R-N.D., and Mary Landrieu, D-La., introduced an amendment Thursday that would declare the Keystone pipeline to be in the national interest. A decision on a permit for the controversial project is still pending at the State Department.¶ On another thorny issue, Sens. Joe Donnelly, D-Ind., and Roy Blunt, R-Mo., introduced an amendment that would ban the Environmental Protection Agency from requiring costly carbon-capture and sequestration technology to be used in order to comply with climate-change regulations. The amendment would instead require the EPA to develop technology standards for different fuels and different sources of emissions.¶ Barrasso is also pushing an amendment to block the agency's upcoming climate rules unless they are approved by Congress. The EPA is expected to issue regulations limiting carbon emissions for new power plants very soon.

#### Latin American relations are vital to US economic growth

Shifter 12 Michael is the President of Inter-American Dialogue. “Remaking the Relationship: The United States and Latin America,” April, IAD Policy Report, http://www.thedialogue.org/PublicationFiles/IAD2012PolicyReportFINAL.pdf

There are compelling reasons for the United States and Latin America to pursue more robust ties. Every country in the Americas would benefit from strengthened and expanded economic relations, with improved access to each other’s markets, investment capital, and energy resources. Even with its current economic problems, the United States’ $16-trillion economy is a **vital** market and source of capital (including remittances) and technology **for Latin America**, and it could contribute more to the region’s economic performance. For its part, **Latin America’s rising economies will** inevitably **become** more and more **crucial to the U**nited **S**tates’ economic future. The United States and many nations of Latin America and the Caribbean would also gain a great deal by more cooperation on such global matters as climate change, nuclear non-proliferation, and democracy and human rights.With a rapidly expanding US Hispanic population of more than 50 million, the cultural and demographic integration of the United States and Latin America is proceeding at an accelerating pace, setting a firmer basis for hemispheric partnership Despite the multiple opportunities and potential benefits, relations between the United States and Latin America remain disappointing . If new opportunities are not seized, relations will likely continue to drift apart . The longer the current situation persists, the harder it will be to reverse course and rebuild vigorous cooperation . Hemispheric affairs require urgent attention—both from the United States and from Latin America and the Caribbean.

#### No impact

Robert Jervis 11, Professor in the Department of Political Science and School of International and Public Affairs at Columbia University, December 2011, “Force in Our Times,” Survival, Vol. 25, No. 4, p. 403-425

Even if war is still seen as evil, the security community could be dissolved if severe conflicts of interest were to arise. Could the more peaceful world generate new interests that would bring the members of the community into sharp disputes? 45 A zero-sum sense of status would be one example, perhaps linked to a steep rise in nationalism. More likely would be a worsening of the current economic difficulties, which could itself produce greater nationalism, undermine democracy and bring back old-fashioned beggar-my-neighbor economic policies. While these dangers are real, it is hard to believe that the conflicts could be great enough to lead the members of the community to contemplate fighting each other. It is not so much that economic interdependence has proceeded to the point where it could not be reversed – states that were more internally interdependent than anything seen internationally have fought bloody civil wars. Rather it is that even if the more extreme versions of free trade and economic liberalism become discredited, it is hard to see how without building on a preexisting high level of political conflict leaders and mass opinion would come to believe that their countries could prosper by impoverishing or even attacking others. Is it possible that problems will not only become severe, but that people will entertain the thought that they have to be solved by war? While a pessimist could note that this argument does not appear as outlandish as it did before the financial crisis, an optimist could reply (correctly, in my view) that the very fact that we have seen such a sharp economic down-turn without anyone suggesting that force of arms is the solution shows that even if bad times bring about greater economic conflict, it will not make war thinkable.

### Rights Leadership Add-On

#### Bringing US in line with other detention practices internationally restores US human rights leadership

Mark H Gitenstein 9, Retired American politician who served as the United States Ambassador to Romania, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 35-36

Second, perhaps the biggest U.S. deviation from the norm lies in the extraordinary manner in which the previous administration made U.S. counterterrorism rules, giving rise to the possibility of virtually unlimited executive authority with respect to detention, surveillance, and even torture. No other country, however permissive the authority that it grants its security services, comes even close. Bringing the United States into line with other democracies, in other words, will involve a strange combination of tightening rules, relaxing rules, and insisting on the conventional order in which rules get made. Reform on those fronts will help to restore the moral credibility of the United States with regard to human rights. U.S. alliances with each of the eight nations surveyed here will prove essential as the country continues to combat jihadist terrorism. To be sure, there will be many situations in which U.S. rules protect civil liberties more robustly than do those in other democracies, as well as some situations in which the unique U.S. counterterrorism effort— which operates throughout the world as a kind of hybrid encompassing military action, covert operations, and criminal justice procedures— requires powers that many countries do not need or claim for themselves. That’s okay. Democracies can take different approaches without being less democratic.

#### Human rights cred solves global war

William W. Burke-White 4, Lecturer in Public and International Affairs and Senior Special Assistant to the Dean, Woodrow Wilson School of Public and International Affairs, Princeton University, Spring 2004, Harvard Human Rights Journal, 17 Harv. Hum. Rts. J. 249, p. 279-280

This Article presents a strategic--as opposed to ideological or normative--argument that the promotion of human rights should be given a more prominent place in U.S. foreign policy. It does so by suggesting a correlation between the domestic human rights practices of states and their propensity to engage in aggressive international conduct. Among the chief threats to U.S. national security are acts of aggression by other states. Aggressive acts of war may directly endanger the United States, as did the Japanese bombing of Pearl Harbor in 1941, or they may require U.S. military action overseas, as in Kuwait fifty years later. Evidence from the post-Cold War period [\*250] indicates that states that systematically abuse their own citizens' human rights are also those most likely to engage in aggression. To the degree that improvements in various states' human rights records decrease the likelihood of aggressive war, a foreign policy informed by human rights can significantly enhance U.S. and global security.¶ Since 1990, a state's domestic human rights policy appears to be a telling indicator of that state's propensity to engage in international aggression. A central element of U.S. foreign policy has long been the preservation of peace and the prevention of such acts of aggression. n2 If the correlation discussed herein is accurate, it provides U.S. policymakers with a powerful new tool to enhance national security through the promotion of human rights. A strategic linkage between national security and human rights would result in a number of important policy modifications. First, it changes the prioritization of those countries U.S. policymakers have identified as presenting the greatest concern. Second, it alters some of the policy prescriptions for such states. Third, it offers states a means of signaling benign international intent through the improvement of their domestic human rights records. Fourth, it provides a way for a current government to prevent future governments from aggressive international behavior through the institutionalization of human rights protections. Fifth, it addresses the particular threat of human rights abusing states obtaining weapons of mass destruction (WMD). Finally, it offers a mechanism for U.S.-U.N. cooperation on human rights issues.

necessity currently exists or is on the horizon.

curity Council resolutions.

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## Case

### AT: Burnout

#### Co-evolution takes too long

**Ryan 1997**, MD, Fellow of the Royal College of Physicians, [Frank, Virus X: Tracking the New Killer Plagues Out of the

Present and Into the Future, p. 372]

How might the human race appear to such an aggressively emerging virus? That teeming, globally intrusive species, with its transcontinental air travel, massively congested cities, sexual promiscuity, and in the less affluent regions—where the virus is most likely to first emerge – a vulnerable lack of hygiene with regard to food and water supplies and hospitality to biting insects! The virus is best seen, in John Holland’s excellent analogy, as a swarm of competing mutations, with each individual strain subjected to furious forces of natural selection for the strain, or stains, most likely to amplify and evolve in the new ecological habitat. With such a promising new opportunity in the invaded species, natural section must eventually come to dominate viral behavior. In time the dynamics of infection will select for a more resistant human population. Such a coevolution takes rather longer in “human” time – **too long**, given the ease of spread within the global village. A rapidly lethal and quickly spreading virus simply **would not have time** to switch from aggression to coevolution. And there lies the danger.

## Politics

### AT: Econ Impact

Jervis

#### No chance of war from economic decline---best and most recent data

Daniel W. Drezner 12, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” <http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5_The-Irony-of-Global-Economic-Governance.pdf>

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict, there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder.

The aggregate data suggests otherwise, however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined since the start of the financial crisis – as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict; the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, “the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40

None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

#### No conflicts resulted from the recession – disproves the impact

Barnett 9**—**senior managing director of Enterra Solutions LLC (Thomas, The New Rules: Security Remains Stable Amid Financial Crisis, 25 August 2009, http://www.aprodex.com/the-new-rules--security-remains-stable-amid-financial-crisis-398-bl.aspx)

When the global financial crisis struck roughly a year ago, the blogosphere was ablaze with all sorts of scary predictions of, and commentary regarding, ensuing conflict and wars -- a rerun of the Great Depression leading to world war, as it were. Now, as global economic news brightens and recovery -- surprisingly led by China and emerging markets -- is the talk of the day, it's interesting to look back over the past year and realize how globalization's first truly worldwide **recession has had** virtually **no impact** whatsoever **on** the **international security** landscape. None of the more than three-dozen ongoing conflicts listed by GlobalSecurity.org can be clearly attributed to the global recession. Indeed, the last new entry (civil conflict between Hamas and Fatah in the Palestine) predates the economic crisis by a year, and three quarters of the chronic struggles began in the last century. Ditto for the 15 low-intensity conflicts listed by Wikipedia (where the latest entry is the Mexican "drug war" begun in 2006). Certainly, the Russia-Georgia conflict last August was specifically timed, but by most accounts the opening ceremony of the Beijing Olympics was the most important external trigger (followed by the U.S. presidential campaign) for that sudden spike in an almost two-decade long struggle between Georgia and its two breakaway regions. Looking over the various databases, then, we see a most familiar picture: the usual mix of civil conflicts, insurgencies, and liberation-themed terrorist movements. Besides the recent Russia-Georgia dust-up, the only two potential state-on-state wars (North v. South Korea, Israel v. Iran) are both tied to one side acquiring a nuclear weapon capacity -- a process wholly **unrelated to** global **economic trends**. And with the United States effectively tied down by its two ongoing major interventions (Iraq and Afghanistan-bleeding-into-Pakistan), our involvement elsewhere around the planet has been quite modest, both leading up to and following the onset of the economic crisis: e.g., the usual counter-drug efforts in Latin America, the usual military exercises with allies across Asia, mixing it up with pirates off Somalia's coast). Everywhere else we find serious instability we pretty much let it burn, occasionally pressing the Chinese -- unsuccessfully -- to do something. Our new Africa Command, for example, hasn't led us to anything beyond advising and training local forces. So, to sum up: •No significant uptick in mass violence or unrest (remember the smattering of urban riots last year in places like Greece, Moldova and Latvia?); •The usual frequency maintained in civil conflicts (in all the usual places); •Not a single state-on-state war directly caused (and no great-power-on-great-power crises even triggered); •No great improvement or disruption in great-power cooperation regarding the emergence of new nuclear powers (despite all that diplomacy); •A modest scaling back of international policing efforts by the system's acknowledged Leviathan power (inevitable given the strain); and •No serious efforts by any rising great power to challenge that Leviathan or supplant its role. (The worst things we can cite are Moscow's occasional deployments of strategic assets to the Western hemisphere and its weak efforts to outbid the United States on basing rights in Kyrgyzstan; but the best include China and India stepping up their aid and investments in Afghanistan and Iraq.) Sure, we've finally seen global defense spending surpass the previous world record set in the late 1980s, but even that's likely to wane given the stress on public budgets created by all this unprecedented "stimulus" spending. If anything, the friendly cooperation on such stimulus packaging was the most notable great-power dynamic caused by the crisis. Can we say that the world has suffered a distinct shift to political radicalism as a result of the economic crisis? Indeed, no. The world's major economies remain governed by center-left or center-right political factions that remain decidedly friendly to both markets and trade. In the short run, there were attempts across the board to insulate economies from immediate damage (in effect, as much protectionism as allowed under current trade rules), but there was no great slide into "trade wars." Instead, the World Trade Organization is functioning as it was designed to function, and regional efforts toward free-trade agreements have not slowed. Can we say Islamic radicalism was inflamed by the economic crisis? If it was, that shift was clearly overwhelmed by the Islamic world's growing disenchantment with the brutality displayed by violent extremist groups such as al-Qaida. And looking forward, austere economic times are just as likely to breed connecting evangelicalism as disconnecting fundamentalism. At the end of the day, the economic crisis did not prove to be sufficiently frightening to provoke major economies into establishing global regulatory schemes, even as it has sparked a spirited -- and much needed, as I argued last week -- discussion of the continuing viability of the U.S. dollar as the world's primary reserve currency. Naturally, plenty of experts and pundits have attached great significance to this debate, seeing in it the beginning of "economic warfare" and the like between "fading" America and "rising" China. And yet, in a world of globally integrated production chains and interconnected financial markets, such "diverging interests" hardly constitute signposts for wars up ahead. Frankly, I don't welcome a world in which America's fiscal profligacy goes undisciplined, so bring it on -- please! Add it all up and it's fair to say that this global financial crisis has proven the great resilience of America's post-World War II international liberal trade order.

### AT: Econ KT Heg

#### Economic power not key to hegemony

Kapila 10 [Dr. Subhash Kapila is an International Relations and Strategic Affairs analyst and the Consultant for Strategic Affairs with South Asia Analysis Group and a graduate of the Royal British Army Staff College with a Masters in Defence Science and a PhD in Strategic Studies., “21st Century: Strategically A Second American Century With Caveats,” June 26, http://www.eurasiareview.com/201006263919/21st-century-strategically-a-second-american-century-with-caveats.html]

Strategically, the 20th Century was decidedly an American Century. United States strategic, military, political and economic predominance was global and undisputed. In the bi-polar global power structure comprising the United States and the Former Soviet Union it was the United States which globally prevailed. The 20th Century's dawn was marked by the First World War which marked the decline of the old European colonial powers, noticeably Great Britain. The Second World War marked the total eclipse of Great Britain and other colonial powers. The United States replaced Great Britain as the new global superpower. The 20th Century's end witnessed the end of the Cold War, with the disintegration of the Former Soviet Union as the United States strategic challenger and counter-vailing power. On the verge of the new millennium the United States strode the globe like a colossus as the sole global super power. With a decade of the 21st Century having gone past, many strategic and political analysts the world over have toyed with projections that United States global predominance is on the decline, and that the 21st Century will not be a second American Century. Having toyed, with such projections, these analysts however shy away from predicting whose century the 21st Century will strategically be? The trouble with such projections is that they are based predominantly on analyses of economic trends and financial strengths and less on detailed analyses of strategic and military strengths, and more significantly strategic cultures. Presumably, it is easier for such analysts to base trends on much quoted statistical data. Strategic analysis of global predominance trends is a more complex task in the opinion of the Author, as it cannot be based on statistical data analysis. Global predominance trends need unravelling of strategic cultures of contending powers, the reading of national intentions and resolve and the inherent national strengths and willpower demonstrated over a considerable time span of half-centuries and centuries. Crisply put, one needs to remember that in the 1980's, Japan and Germany as "economic superpowers" could not emerge as global superpowers. Hence global predominance calls for more than economic strengths. The United States getting strategically bogged down in Iraq and Afghanistan in the first decade of the 21st Century has not led to any noticeable decline in American global predominance. Despite Iraq and Afghanistan, the United States reigns supreme globally even in East Asia where China could have logically challenged it. More significantly, and normally forgotten, is the fact that the off-quoted shift of global and economic power from the West to East was facilitated by United States massive financial direct investments in China, Japan, South Korea and India. China quoted as the next superpower to rival the United States would be economically prostate, should the United States surgically disconnect China's economic and financial linkages to the United States. More significantly, while examining the prospects of the 21st Century as a "Second American Century" it must be remembered that besides other factors, that out of the six multipolar contenders for global power, none except China have shown any indications to whittle down US global predominance. Even China seems to be comfortable with US power as long as it keeps Japan in check. This Paper makes bold to assert that the 21st Century would be a Second American Century despite China's challenge and the strategic distractions arising from the global Islamic flash-points.

### Debt Ceiling =/= Econ Impact

#### Debt ceiling doesn’t collapse the economy---empirics

Michael Tanner 11, National Review, “No Surrender on Debt Ceiling”, Jan 19, <http://www.nationalreview.com/articles/257433/no-surrender-debt-ceiling-michael-tanner>

Of course the Obama administration is already warning of Armageddon if Congress doesn’t raise the debt ceiling. Certainly it would be a shock to the economic system. The bond market could crash. The impact would be felt at home and abroad. But would it necessarily be worse than the alternative? While Congress has never before refused to raise the debt ceiling, it has in fact frequently taken its time about doing so. In 1985, for example, Congress waited nearly three months after the debt limit was reached before it authorized a permanent increase. In 1995, four and a half months passed between the time that the government hit its statutory limit and the time Congress acted. And in 2002, Congress delayed raising the debt ceiling for three months. It took three months to raise the debt limit back in 1985 as well. In none of those cases did the world end. More important, what will be the consequences if the U.S. government fails to reduce government spending? What happens if we raise the debt ceiling then continue merrily on our way spending more and running up ever more debt? Already Moody’s and Standard & Poor’s have warned that our credit rating might be reduced unless we get a handle on our national debt. We’ve heard a lot recently about the European debt crisis, but, as one senior Chinese banking official recently noted, in some ways the U.S. financial position is more perilous than Europe’s. “We should be clear in our minds that the fiscal situation in the United States is much worse than in Europe,” he recently told reporters. “In one or two years, when the European debt situation stabilizes, [the] attention of financial markets will definitely shift to the United States. At that time, U.S. Treasury bonds and the dollar will experience considerable declines.” Moreover, unless we do something, federal spending is on course to consume 43 percent of GDP by the middle of the century. Throw in state and local spending, and government at all levels will take 60 cents out of every dollar produced in this country. Our economy will not long survive government spending at those levels.

#### No markets impact

Peter Lefkin 13, Senior Vice President of Government and External Affairs for Allianz of North America, “Round 2 of the Debt-Ceiling Debate,” Allianz Global, 5/21, <http://us.allianzgi.com/Commentary/MarketInsights/Pages/5QuestionswithPeterLefkin.aspx>

Expect more brinkmanship from Democrats and Republicans. Both parties will go through the rhetoric and the charade of partisan politics. After several years of political uncertainty, markets generally discount dysfunction in Washington. But the political leverage has shifted: The fiscal cliff was a strategic loss for Republicans but it set the stage for them to stand pat on the sequester. The cards are now in their favor. And they’re going to play them. Earlier this year, everyone expected Republicans to demand sweeping changes to entitlement spending as a condition of agreeing to raise the debt limit. With the budget numbers improving, and the public already lulled into complacency about the deficit by low interest rates, many Republicans realize that they may have to shift gears. They could tie the debt-ceiling increase to something else. The Republican wish list includes comprehensive tax reform, entitlement reform and construction of the Keystone oil pipeline.

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