### 1st Off

#### Interpretation – restriction requires *prohibition* of an *entire* topic list area

#### Restriction means prohibition

Corpus Juris Secundum 31

Volume 54, p. 735

RESTRICT: To confine; to limit; to prevent (a person or thing) from passing a certain limit in any kind of action; to restrain; to restrain without bounds.

#### “In the area” means all of the activities

United Nations 13

(United Nations Law of the Sea Treaty, http://www.un.org/depts/los/convention\_agreements/texts/unclos/part1.htm)

PART I¶ INTRODUCTION¶ Article 1

Use of terms and scope¶ 1. For the purposes of this Convention:¶ (1) "Area" means the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction;¶ (2) "Authority" means the International Seabed Authority;¶ (3) "activities in the Area" means all activities of exploration for, and exploitation of, the resources of the Area;

#### Violations – the affirmative doesn’t prohibit

#### --either it sets conditions that can be met, or just limits the scope

#### Voting issue –

#### Limits – absent prohibition of an area, every single condition or regulation acts as a functional restriction on some single process of war powers authority – dozens of tiny mechanisms and small subsets of areas create an infinite number of affs that core lit doesn’t check

#### Bidirectionality – absent a prohibition, the aff can create meaningless “conditions” that EXPAND presidential power – commission consultation proves

Wilson Center No Date

(War Powers Proposal Gives the President Even More Authority, http://www.wilsoncenter.org/publication/war-powers-proposal-gives-the-president-even-more-authority)

A privately organized Commission on War Powers recommended last week that the 1973 War Powers Resolution be repealed and replaced by a Congressional Joint Committee on Consultation and new procedures to approve or disapprove a "significant armed conflict."¶ The 12-member, bipartisan commission, co-chaired by former Secretaries of State Warren Christopher and James Baker, said the current law is flawed. In fact, every president since Richard Nixon has refused to comply with the War Powers Resolution on the grounds that it is an unconstitutional infringement on the president's powers as commander in chief. Among other things, the current act authorizes Congress to terminate combat operations by adopting a concurrent resolution. The Supreme Court ruled in the 1983 Chadha immigration case that one-house and two-house legislative vetoes do not conform to the Constitution's lawmaking requirements of two-house passage and presentment to the president. ¶ Under the substitute law proposed by the commission, the president must, prior to committing troops to "a significant armed conflict" (one likely to last more than a week), submit a classified report to the new joint committee justifying the need for action. The president is then required to consult at least once every 60 days with the committee. ¶ Within 30 days after the conflict begins, if Congress has not enacted a declaration of war or a law authorizing the use of force, a privileged concurrent resolution approving the troop commitment must be brought to a vote in both chambers. If either chamber rejects the approval resolution, any Member can then offer a privileged joint resolution disapproving the commitment. If the joint resolution is vetoed by the president, a two-thirds override vote by both chambers would be necessary to terminate the commitment. ¶ If I were either of the current presidential candidates, I would endorse the commission proposal in a heartbeat. It proposes to vastly expand presidential powers and options beyond current practice. In the "use of force" joint resolutions for Iraq (1991 and 2002) and Afghanistan (2001), Congress was able to negotiate conditions and limitations on the use of force with the president, who then signed the resolutions into law. ¶ That will not be the case if Congress uses the concurrent resolution of approval approach. No matter how many conditions Congress might try to place on the president's use of force in such a concurrent resolution, the president would be under no legal obligation to comply because the provisions would have no force or effect outside Congress. This is because concurrent resolutions are mere sense-of-Congress expressions. (Who's going to charge the president with failing to faithfully execute a non-law?) ¶ It stands to reason that, given this option, no future president will ask for a declaration of war or use of force law when the alternative is a nonbinding sense-of-Congress resolution approving the commitment of troops to combat. Never mind that such a resolution is probably unconstitutional under the Chadha decision requiring two-house passage and presentment to the president. (It's unlikely the court would directly rule on the issue since in recent times it has sidestepped war powers disputes between the branches on the grounds that they present political questions best left to the president and Congress to resolve.) ¶ Another clear advantage to the president presented by the commission's proposed law is the unique relationship that would be established with the 20-member, bipartisan joint committee. Its members would include the Speaker of the House, Senate Majority Leader, House and Senate Minority Leaders and the chairmen and ranking members of eight key committees. Whereas the administration must currently answer to several committees for its war policies, often in public hearings, the new arrangement will give the president both the incentive and justification to deal exclusively with the joint committee in closed sessions. This is something administrations have wanted for years given the burden of officials delivering duplicative testimony in open forums before multiple committees and subcommittees. ¶ The real losers in this new arrangement, of course, will be the rest of the House and Senate and the American people, all of whom will be left in the dark about what is said and done in the closed-door committee consultations with the president. They will be left to trust the judgment of committee members on the necessity for war and its subsequent conduct. ¶ The Commission on War Powers understandably reflects the leadership and views of two former secretaries of State who no doubt see Congress as many of their predecessors have: as an ill-informed, noisy, quarrelsome and meddling micro-manager when it comes to deciding the great issues of war and peace. If the administration must accommodate Congress in some way before making such decisions, they reason, it is best done among a few power elites in Congress, behind closed doors and shielded by classified briefings and documents.

### 2nd Off

**Presidential power high now-historical precedent and Obama domestic and international expansion**

**Fein ‘12**

[Bruce Fein, associate deputy attorney general under President Reagan , A History of the Expansion of Presidential Power, <http://www.nytimes.com/2012/04/28/opinion/a-history-of-the-expansion-of-presidential-power.html>, uwyo//amp]

**The unilateral actions of** President **Obama in the domestic arena to circumvent Congress are** more than **matched by the president’s unilateralism in foreign affairs. Among** other things, President **Obama has unilaterally commenced war, authorized the assassination of American citizens abroad and denied the writ of habeas corpus to detainees** not accused of a crime. **Executive branch power** at the expense of Congress and the Constitution’s checks and balances **has mushroomed since World War II. Examples include** President **Truman’s undeclared war against North Korea**; President **Eisenhower’s executive agreements to defend Spain**; President **Johnson’s Gulf of Tonkin Resolution** regarding Vietnam; President **Nixon’s secret bombing of Cambodia and assertions of executive privilege**; President **Clinton’s undeclared war against Bosnia;** and President **Bush’s countless presidential signing statements**, Terrorist Surveillance Program, waterboarding and Iraq war.

#### Presidential power is zero-sum- the branches compete

Barilleaux and Kelley 2010 [Ryan J. , Professor of Political Science at Miami, OH; and Christopher S. , Lecturer (Political Science) at Miami, OH, The Unitary Executive and the Modern Presidency, Texas A&M Press, p. P 196-197, 2010// wyo-sc]

In their book *The Broken Branch,* Mann and Ornstein paint a different view. They discuss a wider range of public policy areas than just uses of force. Their argument is that although party is important as a conditioning factor for times when Congress might try to restrain an aggressive or noncompliant executive, there has also been a broader degrading of institutional power that has allowed, in a zero-sum context, the president to expand executive power at the expense of Congress. Mann and Ornstein thus posit that congressional willingness to subordinate its collective power to that of the president has occurred across domestic politics and foreign affairs. They argue that a variety of factors are at fault for this trend, including the loss of institutional identity, the willingness to abdicate responsibility to the president, the demise of "regular order," and most importantly that Congress has lost its one key advantage as a legislative body—the decay of the deliberative process. Thus, they do recognize that party politics has played an important role in the degrading of congressional power, but they see a larger dynamic at work, one that reaches beyond partisanship. While we agree with Howell and Pevehouse that Congress retains important mechanisms for constraining the president, we tend to agree with the Mann and Ornstein view that there has been a significant and sustained decline in Congress's willingness to use these mechanisms to challenge presidential power. This tendency has been more prevalent in foreign affairs but has occurred noticeably across the spectrum of public policy issues. Building from both of those perspectives, and others, we argue that it is helpful to understand the pattern of congressional complicity in the rise of presidential power by viewing Congress's aiding and abetting as the logical outcomes of a collective action problem.31 By constitutional design, the legislative branch is in competition with the president for institutional power, yet Congress is less than ideally suited for such a political conflict. Congress's comparative disadvantage begins with its 535 "interests" that are very rarely aligned, and if so, only momentarily. Because individual reelection overshadows all other goals, members of Congress naturally seek to take as much credit and avoid as much blame from their constituencies as possible.32 The dilemma this creates for members is how to use or delegate its collective powers in order to maximize credit and minimize blame in the making of public policy. Congress can choose to delegate power internally to committees and party leaders or externally to the executive branch. One can conceptualize the strategic situation of members of Congress in terms of a prisoner's dilemma.33 If members cooperate (that is, in Mann and Ornstein's parlance, if members identify with the institution), they could maintain and advance Congress's institutional power. But they would have to bypass some potential individual payoffs that could come from defection, such as "running against Congress" as an electoral strategy. A stronger institution should make all members of Congress better off, but it also makes them responsible for policymaking. If members defect from the institution, they thus seek to maximize constituency interests either by simply allowing power to fall by the wayside or by simply delegating it to the president. As more and more members choose to defect over time, the "public good" of a strong Congress is not provided for or maintained—and Congress's institutional authority erodes and presidential power fills in the gap. Why, in other words, is congressional activism so often "less than meets the eye," as Barbara Hinckley maintained in her book by that title? Or why has the ''culture of deference" that Stephen Weissman identified developed as it has?34 We argue that the collective action problem that exists in Congress leads to the development of these trends away from meaningful congressional stewardship of foreign policy and spending.

#### Padilla reversal proves-restrictions on indefinite detention encroach on presidential power

Kaplan 2013

[Lewis A. Kaplan, District Judge, 07/17/2013, Hedges v. Obama, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Hedges.2d-Circuit-Opinion.pdf>, uwyo//amp]

2. Padilla Padilla, also an American citizen, was apprehended at Chicago’s O’Hare International Airport in May 2002 after allegedly receiving training from al-Qaeda in Afghanistan, becoming involved in a plan to detonate a “dirty bomb” here, and returning to the United States to conduct reconnaissance and facilitate attacks by al-Qaeda.21 In December 2003—prior to Hamdi—this Court held that because Padilla was an American citizen arrested on domestic soil away from a zone of combat, his military detention violated the Non-Detention Act and could not be justified by the President’s Article II war powers.22 The Supreme Court reversed our decision on procedural grounds on the day it decided Hamdi butdid not reach the lawfulness of Padilla’s detention.23 Following the Supreme Court’s reversal of our Padilla ruling, a new habeas petition was filed on his behalf. The Fourth Circuit in 2005 concluded that Padilla was lawfully detained under the reasoning of Hamdi because it became known that he had been “armed and present in a combat zone during armed conflict between al Qaeda/Taliban forces and the armed forces of the United States” while in Afghanistan prior to his return to the United States.24 Although Padilla had been apprehended in the United States, the Fourth Circuit concluded that Hamdi had not relied on the place of capture.25 The government subsequently indicted Padilla and transferred him to civilian criminal custody. His petition for certiorari was denied.26

#### Strong executive key to solve climate change-lack of congressional action prevents solvency in the squo and executive negotiating power key to check environmental and economic collapse

Wold 2012

[Chris Wold, Professor of Law & Director, International Environmental Law Project

(IELP), 2012, Lewis & Clark Law School, 2012, CASE WESTERN RESERVE JOURNAL OF INTERNATIONAL LAW·VOL. 45·2012, uwyo//amp]

In 2007, then-Senator Barack Obama wrote, “As the world’s largest producer of greenhouse gases, America has the responsibility to lead.”1 As President, he has led. At the domestic level, working primarily through the Environmental Protection Agency, President Obama has increased fuel economy standards,2 imposed new limits ongreenhouse gas emissions from “major emitting facilities,”3 and imposed limits on emissions relating to the development of oil and gas,4 among many other things.5 As he has said, he must use his executive power because “We Can’t Wait” for Congress to act on climate change.6 Nonetheless, he must do more. President Obama has pledged to the international community that the United States will reduce its greenhouse gases by 17% of 2005 levels by 2020 and by 83% by 2050.7The President has also set a goal of ensuring that “[b]y 2035 we will generate 80 percent of our electricity from a diverse set of clean energy sources—including renewable energy sources like wind, solar, biomass, and hydropower; nuclear power; efficient natural gas; and clean coal.”8 None of his actions come close to meeting these goals. Moreover, he must do more to help the international community reach its goal of keeping average global temperatures from increasing 2°C above pre-industrial levels.9 Many scientists argue that the 2°C goal can be met, and the worst impacts of climate change avoided, if we keep carbon dioxide concentrations below 350 parts per million (ppm).10 As of July 2012, atmospheric concentrations of carbon dioxide exceeded 394 ppm.11 The United States is by far the largest historic contributor to these high levels of atmospheric carbon dioxide, having contributed 28.52% of carbon dioxide from energy.12 As such, the United States must do much more to ensure that the world’s largest historic emitter of greenhouse gases fulfills its moral and perhaps legal obligation to reduce greenhouse gases before we reach climate change tipping points beyond which climate change will be irreversible for millennia to come.And indeed, President Obama can do much more. As described below, the president can use his foreign affairs power to take a more positive role on the international stage, whether that stage is the climate change negotiations, the negotiations concerning other international treaties, or within the World Trade Organization. He can also do more with his executive power, not only by increasing existing standards but also by applying them to existing sources of greenhouse gases, not just new sources. Further, President Obama has so far failed to take advantage of strategies to mitigate emissions of short-term climate forcers such as black carbon that could provide significant climate benefits. Lastly, the approaches adopted so far have not pushed regulated entities or others to develop the transformative technologies that will be needed to deliver sufficient climate change benefits to avert the environmental and economic crisis that lies ahead if we fail to take more aggressive action.

**Studies show warming is human caused and will cause extinction**

**Ahmed 2010**

(Nafeez Ahmed, Executive Director of the Institute for Policy Research and Development, professor of International Relations and globalization at Brunel University and the University of Sussex, Spring/Summer 2010, “Globalizing Insecurity: The Convergence of Interdependent Ecological, Energy, and Economic Crises,” Spotlight on Security, Volume 5, Issue 2, online)

Perhaps **the most notorious indicator is anthropogenic global warming**. **The landmark** 2007 Fourth **Assessment** Report of the UN Intergovernmental Panel **on Climate Change** (IPCC) – which **warned that at then-current rates of increase of fossil fuel emissions, the earth’s global average temperature would likely rise by 6°C by the end of the 21st century** **creating a** largely **uninhabitable planet** – was a wake-up call to the international community.[v] **Despite the pretensions of ‘climate sceptics,’ the peer-reviewed scientific literature has continued to produce evidence that the IPCC’s original scenarios were wrong – not because they were too alarmist**, but on the contrary, **because they were far too conservative**. According to a paper in the Proceedings of the National Academy of Sciences, **current CO2 emissions are worse than all six scenarios contemplated by the IPCC. This implies that the IPCC’s worst-case six-degree scenario severely underestimates the most probable climate trajectory** under current rates of emissions.[vi] It is often presumed that a 2°C rise in global average temperatures under an atmospheric concentration of greenhouse gasses at 400 parts per million (ppm) constitutes a safe upper limit – **beyond which further global warming could trigger rapid and abrupt climate changes that, in turn, could tip the whole earth climate system into a process of irreversible, runaway warming.[**vii] Unfortunately, we are already well past this limit, with the level of greenhouse gasses as of mid-2005 constituting 445 ppm.[viii] Worse still, cutting-edge scientific data suggests that the safe upper limit is in fact far lower**. James Hansen**, director of the NASA Goddard Institute for Space Studies, **argues that the absolute upper limit for CO2 emissions is 350 ppm: “If the present overshoot of this target CO2 is not brief, there is a possibility of seeding irreversible catastrophic effects.**”[ix] A wealth of **scientific studies** has **attempted to explor**e the role of **positive-feedback mechanisms between different climate sub-systems**, the operation of which could intensify the warming process. **Emissions beyond 350 ppm over decades are likely to lead to the total loss of Arctic sea-ice** in the summer **triggering magnified absorption** of sun radiation, **accelerating warming**; the melting of Arctic permafrost triggering **massive methane injections** into the atmosphere, accelerating warming; the **loss of half the Amazon rainforest** triggering the momentous release of billions of tonnes of stored carbon, accelerating warming; and **increased microbial activity in the earth’s soi**l leading to further huge releases of stored carbon, accelerating warming; to name just a few. **Each of these feedback sub-systems alone is sufficient by itself to lead to irreversible, catastrophic effects that could tip the whole earth climate system over the edge**.[x] Recent studies now estimate that the **continuation of business-as-usual would lead to global warming of three to four degrees Celsius before 2060 with multiple irreversible, catastrophic impacts; and six, even as high as eight, degrees by the end of the century – a situation endangering the survival of all life on earth.[**xi]

### 3rd Off

#### Obama has the upper hand on debt limit now but GOP demands could create a complicated battle

Kapur, 9/9 --- TPM’s senior congressional reporter and Supreme Court correspondent

(9/9/2013, Sahil, “Is House GOP Backing Down In Debt Limit Fight?” <http://tpmdc.talkingpointsmemo.com/2013/09/house-gop-cantor-memo-debt-ceiling-cr-sequester-immigration.php>)

¶ House Republicans are taming members’ expectations ahead of the debt limit showdown, signaling that they may not be able to extract significant concessions from Democrats.¶A Friday memo to GOP members by Majority Leader Eric Cantor (R-VA) says “the House will act to prevent a default on our obligations before” the mid-October deadline the Obama administration has established. “House Republicans,” he says, “will demand fiscal reforms and pro-growth policies which put us on a path to balance in ten years in exchange for another increase in the debt limit.”¶ The language is vague — intentionally so, in order to maintain wiggle room for Republicans to avert a disastrous debt default. President Barack Obama has vowed not to pay a ransom to ensure the U.S. can meet its obligations.¶ If and when they do cave, Republicans will be hard-pressed to show their base they got something in return for raising the debt ceiling. In January, they got Senate Democrats to agree to pass a non-binding budget resolution. This time around, the possibilities for symbolic concessions range from a doomed Senate vote to delay or defund Obamacare or instructions to initiate the process of tax reform.¶ There are a number of demands rank-and-file Republicans have urged leaders to make which could genuinely complicate the battle, such as dollar-for-dollar spending cuts or unwinding Obamacare. Cantor’s memo mentioned neither. GOP members have also called on leadership not to bring up any debt limit bill that lacks the support of half the conference. Boehner hasn’t committed to this and Cantor didn’t mention it in his memo.¶ There are several reasons Republicans will have a hard time extracting concessions. Back in January, when Obama held firm and refused to negotiate on the debt limit, Republicans folded and agreed to suspend the debt ceiling without substantial concessions but rather symbolic ones. And due to deep divisions within the conference, House Republicans will face enormous challenges in rounding up 218 votes to pass any conceivable debt limit hike.¶ The party’s top priority is to cut safety-net programs like Social Security and Medicare. But there’s no internal consensus on what to cut. And Republicans, whose constituents are disproportionately older, have generally refused to vote on entitlement cuts without bipartisan cover from Democrats. In this case Democrats are highly unlikely to give it to them, which complicates their task of passing a debt limit bill.¶ The Cantor memo makes it all but official that Republicans won’t seek to defund Obamacare in the fiscal battles. The strategy, pushed by conservative activists, to withhold support for keeping the government running after Sept. 30 unless Democrats agree to defund Obamacare. Instead it vows to “hold a series of strategic votes throughout the fall to dismantle, defund, and delay Obamacare.” The memo says Republicans “will continue to pursue the strategy of systematically derailing this train wreck and replacing it with a patient-centered system.”¶ The GOP’s big stand in the fiscal battles will be to force Obama to accept the lower spending levels ordered by sequestration — automatic spending cuts enacted in 2011 — in a measure to keep the government funded. Here Republicans will refuse to cede and the White House has not suggested it’ll veto a bill that maintains sequester spending levels, although Obama wants to cut a deal to replace the sequester.¶ “In signing a CR at sequester levels,” Cantor writes, “the President would be endorsing a level of spending that wipes away all the increases he and Congressional Democrats made while they were in charge and returns us to a pre-2008 level of discretionary spending.”

#### Obama is pushing Congress to resolve the debt ceiling – political capital is key to success

Pace 9/12

Julie, AP White House correspondent, Syria debate on hold, Obama refocuses on agenda, The Fresno Bee, 9/12/13, http://www.fresnobee.com/2013/09/12/3493538/obama-seeks-to-focus-on-domestic.html

With a military strike against Syria on hold, President Barack Obama tried Thursday to reignite momentum for his second-term domestic agenda. But his progress could hinge on the strength of his standing on Capitol Hill after what even allies acknowledge were missteps in the latest foreign crisis.¶ "It is still important to recognize that we have a lot of things left to do here in this government," Obama told his Cabinet, starting a sustained White House push to refocus the nation on matters at home as key benchmarks on the budget and health care rapidly approach.¶ "The American people are still interested in making sure that our kids are getting the kind of education they deserve, that we are putting people back to work," Obama said.¶ The White House plans to use next week's five-year anniversary of the 2008 financial collapse to warn Republicans that shutting down the government or failing to raise the debt limit could drag down the still-fragile economy. With Hispanic Heritage Month to begin Monday, Obama is also expected to press for a stalled immigration overhaul and urge minorities to sign up for health care exchanges beginning Oct. 1.¶ Among the events planned for next week is a White House ceremony highlighting Americans working on immigrant and citizenship issues. Administration officials will also promote overhaul efforts at naturalization ceremonies across the country. On Sept. 21, Obama will speak at the Congressional Black Caucus Gala, where he'll trumpet what the administration says are benefits of the president's health care law for African-Americans and other minorities.¶ Two major factors are driving Obama's push to get back on track with domestic issues after three weeks of Syria dominating the political debate. Polls show the economy, jobs and health care remain Americans' top concerns. And Obama has a limited window to make progress on those matters in a second term, when lame-duck status can quickly creep up on presidents, particularly if they start losing public support.¶ Obama already is grappling with some of the lowest approval ratings of his presidency. A Pew Research Center/USA Today poll out this week put his approval at 44 percent. That's down from 55 percent at the end of 2012.¶ Potential military intervention in Syria also is deeply unpopular with many Americans, with a Pew survey finding that 63 percent opposing the idea. And the president's publicly shifting positions on how to respond to a deadly chemical weapons attack in Syria also have confused many Americans and congressional lawmakers.¶ "In times of crisis, the more clarity the better," said Sen. Lindsey Graham, R-S.C., a strong supporter of U.S. intervention in Syria. "This has been confusing. For those who are inclined to support the president, it's been pretty hard to nail down what the purpose of a military strike is."¶ For a time, the Obama administration appeared to be barreling toward an imminent strike in retaliation for the Aug. 21 chemical weapons attack. But Obama made a sudden reversal and instead decided to seek congressional approval for military action.¶ Even after administration officials briefed hundreds of lawmakers on classified intelligence, there appeared to be limited backing for a use-of-force resolution on Capitol Hill. Rather than face defeat, Obama asked lawmakers this week to postpone any votes while the U.S. explores the viability of a deal to secure Syria's chemical weapons stockpiles.¶ That pause comes as a relief to Obama and many Democrats eager to return to issues more in line with the public's concerns. The most pressing matters are a Sept. 30 deadline to approve funding to keep the government open — the new fiscal year begins Oct. 1 — and the start of sign-ups for health care exchanges, a crucial element of the health care overhaul.¶ On Wednesday, a revolt by tea party conservatives forced House Republican leaders to delay a vote on a temporary spending bill written to head off a government shutdown. Several dozen staunch conservatives are seeking to couple the spending bill with a provision to derail implementation of the health care law.¶ The White House also may face a fight with Republicans over raising the nation's debt ceiling this fall. While Obama has insisted he won't negotiate over the debt limit, House Speaker John Boehner on Thursday said the GOP will insist on curbing spending.

#### Indefinite detention is one of the most controversial topics in congress-fights at every level over every possible move

Fisher 13

(Max, Foreign Policy Staff at the Washington Post. “Why hasn’t Obama closed Guantanamo Bay?” 4-30-13 http://www.washingtonpost.com/blogs/worldviews/wp/2013/04/30/obama-just-gave-a-powerful-speech-about-the-need-to-close-gitmo-so-why-hasnt-he//wyoccd)

Obama pledged that, though he failed to close the facility after first coming into office, he would try again. “I’m going to go back at this,” he said. “I’ve asked my team to review everything that’s currently being done in Guantanamo, everything that we can do administratively, and I’m going to re-engage with Congress to try to make the case that this is not something that’s in the best interests of the American people.”¶ The impromptu comments were a little surprising for their rhetoric, sounding more like a 2007 campaign speech than the words of someone who has been U.S. president for four-plus years. As the New Yorker’s Amy Davidson put it, “He spoke as if he had happened upon the place, like a bystander.” So why, if Obama is so passionate about closing Guantanamo, hasn’t he? The question is a tricky one: There are very real political and legal hurdles, not to mention ever-present national security concerns. To the extent that we can name a single obstacle that’s keeping bulldozers from razing the infamous detention center, it might be the inability of the White House, Congress and foreign governments to come to an agreement about where to put the detainees.¶ The challenge in closing the prison at Guantanamo Bay is not actually the detention facility itself. The problem is the 166 detainees, each of whom has to be moved somewhere else. A basic premise of Gitmo, after all, was that these are people would be kept in perpetual limbo. Each detainee can leave that limbo through one of four different routes: a civilian trial, a military tribunal, a foreign country’s prison system or freedom.¶ Sounds simple enough, right? Except that the first two routes – civilian trial or military tribunal – were blocked by Congress, which passed legislation barring the federal government from funding trials for Guantanamo detainees or buying a prison in the U.S. to house them.¶ The third route, to send the detainees to a foreign country’s prison system, is only legal if the U.S. can be sure that the detainees will not be tortured there. Given some of the countries from which the detainees originate, this is not always an easy guarantee to make. And there have been doubts about foreign governments’ ability to appropriately safeguard the detainees. A 2008 Washington Post article portrayed Yemeni officials struggling to convince their U.S. counterparts that they could safely accommodate prisoners from Guantanamo, while U.S. officials worried that they might be released.¶ The fourth route, freedom, actually already applies to 86 of the 166 detainees. The U.S. government believes they can be safely released back into the world, but it has nowhere to send them. For many of these individuals, their home country will not take them or might torture them, meaning the U.S. has to find an entirely different country to release them to.¶ There’s been a great deal of political attention to this last category. Recent congressional legislation allows the Pentagon to get a special “waiver” allowing it to ship detainees to third countries, but only if a senior administration official pledges that the receiving country can guarantee that the detainee will never take up (or, in some cases, return to) terrorism against the U.S. Given that a recent study estimated that between 16 and 27 percent of released Gitmo detainees have participated in terrorism since leaving the facility, it’s hard to imagine any top political officials betting their careers on newly released detainees never returning to extremism. Whether the significant political risk of using these waivers is a bug of the program or a feature, the effect is the same, and in January the Obama administration effectively shut down the State Department office dedicated to closing Guantanamo.¶ So what can Obama do? He can lobby Congress, as he hinted he would do at Tuesday’s news conference, perhaps to change the legislation blocking the U.S. from trying Guantanamo detainees or keeping them on U.S. soil. He can work with Yemen; a majority of the detainees are Yemeni, and their home country, which has been beset by political turmoil for the past two years, says it’s working on a $11 million facility to house and rehabilitate former Gitmo detainees. Perhaps Yemen could be better prepared to accept former detainees and to give them enough good options that they won’t want to turn to extremism. Obama could also work with Congress to loosen the politically unpalatable process for releasing detainees, or he could go ahead and release them anyway, although that would require finding countries to accept them.

#### Failure collapses the economy – goes global and past events don’t disprove

Davidson 9/10

Adam, co-founder of NPR’s “Planet Money,” Our Debt to Society, New York Times, 9/10/13, http://www.nytimes.com/2013/09/15/magazine/our-debt-to-society.html?pagewanted=all

If the debt ceiling isn’t lifted again this fall, some serious financial decisions will have to be made. Perhaps the government can skimp on its foreign aid or furlough all of NASA, but eventually the big-ticket items, like Social Security and Medicare, will have to be cut. At some point, the government won’t be able to pay interest on its bonds and will enter what’s known as sovereign default, the ultimate national financial disaster achieved by countries like Zimbabwe, Ecuador and Argentina (and now Greece). In the case of the United States, though, it won’t be an isolated national crisis. If the American government can’t stand behind the dollar, the world’s benchmark currency, then the global financial system will very likely enter a new era in which there is much less trade and much less economic growth. It would be, by most accounts, the largest self-imposed financial disaster in history.¶ Nearly everyone involved predicts that someone will blink before this disaster occurs. Yet a small number of House Republicans (one political analyst told me it’s no more than 20) appear willing to see what happens if the debt ceiling isn’t raised — at least for a bit. This could be used as leverage to force Democrats to drastically cut government spending and eliminate President Obama’s signature health-care-reform plan. In fact, Representative Tom Price, a Georgia Republican, told me that the whole problem could be avoided if the president agreed to drastically cut spending and lower taxes. Still, it is hard to put this act of game theory into historic context. Plenty of countries — and some cities, like Detroit — have defaulted on their financial obligations, but only because their governments ran out of money to pay their bills. No wealthy country has ever voluntarily decided — in the middle of an economic recovery, no less — to default. And there’s certainly no record of that happening to the country that controls the global reserve currency.¶ Like many, I assumed a self-imposed U.S. debt crisis might unfold like most involuntary ones. If the debt ceiling isn’t raised by X-Day, I figured, the world’s investors would begin to see America as an unstable investment and rush to sell their Treasury bonds. The U.S. government, desperate to hold on to investment, would then raise interest rates far higher, hurtling up rates on credit cards, student loans, mortgages and corporate borrowing — which would effectively put a clamp on all trade and spending. The U.S. economy would collapse far worse than anything we’ve seen in the past several years.¶ Instead, Robert Auwaerter, head of bond investing for Vanguard, the world’s largest mutual-fund company, told me that the collapse might be more insidious. “You know what happens when the market gets upset?” he said. “There’s a flight to quality. Investors buy Treasury bonds. It’s a bit perverse.” In other words, if the U.S. comes within shouting distance of a default (which Auwaerter is confident won’t happen), the world’s investors — absent a safer alternative, given the recent fates of the euro and the yen — might actually buy even more Treasury bonds. Indeed, interest rates would fall and the bond markets would soar.¶ While this possibility might not sound so bad, it’s really far more damaging than the apocalyptic one I imagined. Rather than resulting in a sudden crisis, failure to raise the debt ceiling would lead to a slow bleed. Scott Mather, head of the global portfolio at Pimco, the world’s largest private bond fund, explained that while governments and institutions might go on a U.S.-bond buying frenzy in the wake of a debt-ceiling panic, they would eventually recognize that the U.S. government was not going through an odd, temporary bit of insanity. They would eventually conclude that it had become permanently less reliable. Mather imagines institutional investors and governments turning to a basket of currencies, putting their savings in a mix of U.S., European, Canadian, Australian and Japanese bonds. Over the course of decades, the U.S. would lose its unique role in the global economy.¶ The U.S. benefits enormously from its status as global reserve currency and safe haven. Our interest and mortgage rates are lower; companies are able to borrow money to finance their new products more cheaply. As a result, there is much more economic activity and more wealth in America than there would be otherwise. If that status erodes, the U.S. economy’s peaks will be lower and recessions deeper; future generations will have fewer job opportunities and suffer more when the economy falters. And, Mather points out, no other country would benefit from America’s diminished status. When you make the base risk-free asset more risky, the entire global economy becomes riskier and costlier.

#### Nuclear war

Friedberg and Schoenfeld 8

Aaron, Prof. Politics. And IR @ Princeton’s Woodrow Wilson School and Visiting Scholar @ Witherspoon Institute, and Gabriel, Senior Editor of Commentary and Wall Street Journal, “The Dangers of a Diminished America” <http://online.wsj.com/article/SB122455074012352571.html>

Then there are the dolorous consequences of a potential collapse of the world's financial architecture. For decades now, Americans have enjoyed the advantages of being at the center of that system. The worldwide use of the dollar, and the stability of our economy, among other things, made it easier for us to run huge budget deficits, as we counted on foreigners to pick up the tab by buying dollar-denominated assets as a safe haven. Will this be possible in the future? Meanwhile, traditional foreign-policy challenges are multiplying. The threat from al Qaeda and Islamic terrorist affiliates has not been extinguished. Iran and North Korea are continuing on their bellicose paths, while Pakistan and Afghanistan are progressing smartly down the road to chaos. Russia's new militancy and China's seemingly relentless rise also give cause for concern. If America now tries to pull back from the world stage, it will leave a dangerous power vacuum. The stabilizing effects of our presence in Asia, our continuing commitment to Europe, and our position as defender of last resort for Middle East energy sources and supply lines could all be placed at risk. In such a scenario there are shades of the 1930s, when global trade and finance ground nearly to a halt, the peaceful democracies failed to cooperate, and aggressive powers led by the remorseless fanatics who rose up on the crest of economic disaster exploited their divisions. Today we run the risk that rogue states may choose to become ever more reckless with their nuclear toys, just at our moment of maximum vulnerability. The aftershocks of the financial crisis will almost certainly rock our principal strategic competitors even harder than they will rock us. The dramatic free fall of the Russian stock market has demonstrated the fragility of a state whose economic performance hinges on high oil prices, now driven down by the global slowdown. China is perhaps even more fragile, its economic growth depending heavily on foreign investment and access to foreign markets. Both will now be constricted, inflicting economic pain and perhaps even sparking unrest in a country where political legitimacy rests on progress in the long march to prosperity. None of this is good news if the authoritarian leaders of these countries seek to divert attention from internal travails with external adventures.

### 4th Off

#### Text: The President of the United States should release those who are unlawfully held indefinitely by the United States government.

#### Obama has the legal authority to release indefinite detainees

Posner 2013

[Eric Posner, professor at the University of Chicago Law School,. May 02, 2013, President Obama Can Shut Guantanamo Whenever He Wants, <http://www.slate.com/articles/news_and_politics/view_from_chicago/2013/05/president_obama_can_shut_guantanamo_whenever_he_wants_to.html>, uwyo//amp]

In his press conference Tuesday, President Obama repeated that he wanted to shut Guantanamo Bay but blamed Congress for stopping him. “They would not let us close it,” he said. But that’s wrong. President Obama can lawfully release the detainees if he wants to. Congress has made it difficult, but not impossible. Whatever he’s saying, the president does not want to close the detention center—at least not yet. The relevant law is the National Defense Authorization Act of 2012 (NDAA). This statute confirms the president’s power to wage war against al-Qaida and its associates, which was initially given to him in the Authorization for Use of Military Force (AUMF) passed shortly after 9/11. The NDAA also authorizes the president to detain enemy combatants, and bans him from transferring Guantanamo detainees to American soil. The NDAA does not, however, ban the president from releasing detainees. Section 1028 authorizes him to release them to foreign countries that will accept them—the problem is that most countries won’t, and others, like Yemen, where about 90 of the 166 detainees are from, can’t guarantee that they will maintain control over detainees, as required by the law.

### 5th Off

#### Their aff wedded to the system it critiques. Butler’s critical public plays never question its foundations. The aff is a recipe capitalist domination.

Paul Smith, Professor of Cultural Studies at George Mason University, 2004, symploke, Vol. 12, No. 1-2, p. 259-260

What all this amounts to, as I'm sure many other commentators have seen and remarked, is that Butler's thinking is essentially that of good old American liberalism leavened with a measure of imperfectly digested French structuralism and post-structuralism. The first casualty in that American tradition has always been political economy and history; they disappear even if they are ritually invoked in some polite way. The problem there, as I've suggested, is that real conditions and conjunctures cannot be fully understood. A second traditional characteristic is what might be called a creeping universalism, where the very fact of speaking from within the American context soon persuades the speaker that there is a "we" out there that shares assumptions and perceptions. An attentive reader of Butler's essays here will be easily able to track the mutations of the referent when she uses the pronoun "we." Even where her point is to argue for inclusivity, or for the extension of the boundaries of the human, it's clear that the initial vantage point is the American human. A third characteristic of America liberal discourse is its strain of religiosity. Butler's final chapter here, the only previously unpublished essay in the book, concentrates on Emmanuel Lévinas, and it exhibits that trait. The essay is intended to underline the philosophical basis of the book's general discussion of the human and it is from Lévinas that Butler gets her title, Precarious Life. For Lévinas the word précaire fully implicates its etymology in the Latin word precari, an interestingly intransitive verb meaning to pray. The suggestion in Lévinas is that the Other is finally the divinity to whom we must pray and upon whom our existence depends in a supplicatory way. Butler's text doesn't explicitly take on this thicker meaning of "precarious," but the pressure that the word exerts on her text produces a glimpse of the religiosity that lurks behind all her schemas of interrelational identity, or of mourning and melancholia, and of course of "the human." Like all liberal discourse Butler's essays have power and here they identify and assault some of the worst symptoms of post-9/11 America. Their tone is largely outraged and militant, and the essays are occasionally courageous and biting. But it would be a mistake, I think, to take them as much more than a kind of bien pensant liberalism. It's clear that liberalism has always acted as the loyal opposition, pressing for its right to dissent and question, but never finally questioning or dissenting from the very system that has produced both it and its master. Indeed, the condition of liberalism could be the dictionary definition of precariousness itself: utterly dependent on the system and its rules, always in a supplicatory or petitioning relation to it, wanting to have its voice heard but certainly never willing to overthrow it. Liberalism is, in that sense, not unlike the "embedded" journalists working hand in hand with the military in Iraq. All of which brings up the question that Butler's final chapter opens and closes with: what is the role and the use of cultural criticism in these times? Butler's answer is modest and limited. What we need, she claims, is to sustain the project of the humanities and cultural criticism by trying to ensure that dissenting voices are heard within American democracy; those voices will bring "us" back to find "the human where we do not expect to find it, in its frailty and at the limits of its capacity to make sense" (151). In my view, it's crucial to resist this strain of "cultural criticism." That's not because it's unnecessary to attack the same targets as Butler attacks—we cannot not attack those targets. But rather it's because the way of thinking—the philosophical tradition, indeed—that underpins her assaults is ultimately anything but radical. Cultural criticism would indeed be in a precarious state if this liberalism were its proper and uncontested location.

#### Their focus on subjects excluded from normative conceptions of the human and focus on representations gives rise to a politics in which people whose identities are defined by class and capitalism and have no relation to ‘normative conceptions of the human’ are excluded from view.

Paul Smith, Professor of Cultural Studies at George Mason University, 2004, symploke, Vol. 12, No. 1-2, p. 256-257

The nub of all this comes early in the book, when Butler proposes to consider "the conditions under which certain human lives are more vulnerable than others, and thus certain human lives more grievable than others" (30).Thus, she asks why it is that Americans cannot grieve the Muslim dead in the post 9/11 conflicts. The absence of the Muslim dead from the news and the obituaries is immediately aligned with the struggles of "sexual minorities . . . transgendered people . . . intersexed people . . . [the] physically challenged" and racial minorities, all of whom struggle with the social imposition of parameters of the human, with normative values and "culturally viable notions of the human" (35). This sweeping homology is driven home by reference to "the queer lives that vanished on September 11," who went unrecognized in the obituaries and whose relatives were "belatedly and selectively . . . made eligible for benefits" (35). This rather breathtaking alignment has perhaps the opposite effect to that intended. Here and elsewhere Butler is at pains to say that she's not calling for simply some warm and fuzzy inclusion of excluded subjective into the faulty normative schemes that she sees all around her. Instead, she is calling for what she calls "an insurrection at the level of ontology" (33). (If that's to be the new slogan of radicalism, Bush, Ashcroft, Rumsfeld and their ilk probably aren't going to be losing a lot of sleep!) But rather than offering ways to reconceive relational subjectivity, or even simply highlighting the specific struggles of different subjects, Butler in effect produces nothing more than some rough equivalency amongst all those who somehow don't fit neatly into the "culturally viable notions of the human." To conceive of such an equivalency you have to do a lot of stripping away of materiality and you have to be virtually impervious to levels of specificity. At best, what Butler is pointing to here is a purely discursive or ideological homology, and it turns out to be a very incomplete homology even in its own terms. That is, there's something analytically wrong when Butler's highlighting of the "vanished lives" from the WTC can't include the laborers, janitors, food workers, homeless people and undocumented immigrants who died there, and whose struggles for recognition were not just about their access to "culturally viable notions of humanity" but equally about their economic value. In mostly unpublicized struggles to gain compensation and benefits, the relatives of many of these people, as well as attack survivors themselves, confronted the simple fact that their lives were simply not valued. The struggles of many of these people continue, three years after the attacks. These kinds of people don't appear in Butler's pantheon of victims—and nor do her victims themselves appear as labor, or as subjects whose identity is in any way at all constituted by their relation to capitalism (even though this might well be why they were attacked, as representatives of a predatory capitalist imperium). This elision, executed during Butler's cheerleading for the principles of inculsivity and relationality, is more than simply symptomatic of Butler's approach; it is a reminder of the weakness of any consideration of identity that cannot or will not entertain the historical and material conditions under which such identities are formed. In the end, what divides and differentiates subjects is not some factitious, contingent and unsatisfactory use of the category "human;" rather more it is the continual and relentless depredations of capital. So it's not really "conditions" that Butler investigates in this book; she isn't asking about American imperialism, or media power, or any of the material factors that inflect contemporary ideologies. Rather, she is simply pointing to some of the discursive structures and attitudinal habits that express those conditions. Butler will no doubt be familiar with the criticism that she is unable or unwilling to investigate those conditions or to see subjects as in any significant part produced by them. Similar issues are notably at stake in her exchanges with Nancy Fraser (in New Left Review) or with Gayle Rubin (in differences) in the last decade; and they arise again in her conversations with Laclau and Zizek in Contingency, Hegemony, Universality (2000). In my view, in all of these exchanges Butler comes across as more obstinate than correct in dealing with the challenge to her thinking that political-economic factors pose. Indeed, in the last named text, when called to account for these lapses, she comes out with one of the most perverse formulations in all of her writing: "It's unclear that the subject is not, for instance, from the start structured by certain general features of capitalism, or that capitalism does not produce certain quandaries for the unconscious and, indeed, for the psychic subject more generally" (277). Such circumphrasis (a spectacular double negative and a vagueness masquerading through the repeated word "certain") can only confirm the suspicion that, if an examination of "conditions" entails thinking in terms of political economy, Butler doesn't in fact want anything to do with it.

#### Debate is about which activist strategy to endorse because Butler produces tradeoffs- Butler’s refusal to interrogate the conditions of contemporary capitalism make her politics a drain on anti-capitalist resistance

Brett Neilson, senior lecturer in the School of Humanities at the University of Western Sydney and a member of the Centre for Cultural Research, and Ned Rossiter, senior lecturer at the Centre for Media Research, University of Ulster and adjuct research fellow at the Centre for Cultural Research, University of Western Sydney, September 2005, Fiberculture, Issue 5, online: http://www.journal.fibreculture.org/issue5/neilson\_rossiter.html, accessed October 1, 2006

Undoubtedly, current perceptions of insecurity are complex and cannot be traced to a single source such as global terrorism, precarity at work, environmental risk, or exposure to the volatility of financial markets (say through pension investments and/or interest rates). At the existential level, these experiences mix or work in concert to create a general feeling of unease. And the conviction that the state (whether conceived on the national scale or in terms of some more extensive sovereign entity like the E.U.) can provide stability in any one of these spheres is not necessarily separable from the notion that it can eliminate risk and contingency in another. Not only does this imply that the struggle against precarity, if not carefully conceived, may bolster and/or feed off state-fueled security politics, but also it suggests that there is something deeper about precarity than its articulation to labour alone would suggest - some more fundamental, but never foundational, human vulnerability, that neither the act nor potential of labour can exhaust. This is certainly the sense in which Judith Butler, in Precarious Life (2004), confronts what she calls precariousness (which should be distinguished from precarity intended in the labour market sense). For Butler, precariousness is an ontological and existential category that describes the common, but unevenly distributed, fragility of human corporeal existence. A condition made manifest in the U.S. by the events of 911, this fundamental and pre-individual vulnerability is subject to radical denial in the discourses and practices of global security. For instance, Butler understands President George W. Bush's 921 declaration that 'our grief has turned to anger and our anger to resolution' to constitute a repudiation of precariousness and mourning in the name of an action that purports to restore order and to promote the fantasy that the world formerly was orderly. And she seeks in the recognition of this precariousness an ethical encounter that is essential to the constitution of vulnerability and interdependence as preconditions for the "human". Key to Butler's argument is the proposition that recognition of precariousness entails not simply an extrapolation from an understanding of one's own precariousness to an understanding of another's precarious life but an understanding of 'the precariousness of the Other'. Her emphasis is on the relationality of human lives and she sees this not only as a question of political community but also as the basis for theorising dependency and ethical responsibility. Rather than seeking to describe the features of a universal human condition (something that she claims does not exist or yet exist), she asks who counts as human. And with this reference to humans not regarded as humans, she seeks not a simple entry of the 'excluded into an established ontology, but an insurrection at the level of ontology, a critical opening up of the questions, What is real? Whose lives are real? How might reality be remade?' (2004: 33). At this level, the theorisation of precariousness impinges on fundamental ontological questions and, to this extent, it suggests a means of joining some of the actions and arguments surrounding precarity to a more philosophically engaged encounter with notions such as creativity, contingency, and relation. As noted above, Butler's argument, while claiming to affect an ontological insurrection, takes shape above all in the post-911 United States. A passionate appeal for the necessity of critique under circumstances where popular energies have rallied around the executive branch of government, Precarious Life understandly focuses on the progress of global war and the transformations of life within the U.S. polity. But it also presents precariousness as a general principle of the human (and who counts as such). And while it emphasises the uneven distribution of this basic human fragility, it does not analyse the workings of this unevenness in detail (as if they were merely given, coincidental and outside the realm of fundamental ontology). In other words, Butler does not explore the whole problematic of global capitalism and its relations to the current conflict.[[4]](http://www.journal.fibreculture.org/issue5/neilson_rossiter.html#4) Certainly these relations are of a complex order and cannot be reduced to the simple formula ("no blood for oil") that would have war working always in the service of capital and vice versa. In a world where the operations of the global market (by which any object, regardless of location, can be valued and ordered) do not necessarily accord with the logic of strategy (by which spatially fixed resources, subject to calculation and command in the aggregate, are brought under control by state actors), there are likely discrepancies to exploit between the workings of capital and the enterprise of security (Neilson, forthcoming). For instance, the effort to block the flow of laundered money that funds terror networks requires a tightening of regulation on that very institution that lies at the heart of global neoliberal enterprise, the deregulated financial market (Napoleoni, 2003). Indeed, it may be in these gaps, where security and capital come into conflict, that the motif of precarious life receives its most radical articulation, where precariousness meets precarity, and the struggle against neoliberal capitalism that dominated the global movement from Seattle might finally work in tandem with the struggle against war. Such a realisation must be central to any politics that seeks to reach beyond the limits of precarity as a strategy of organisation.

### Case

#### They replicate totalitarian disregard for life – they sacrifice political responsibility on the altar of morality, turns case

Jeffrey C. Isaac, James H. Rudy Professor of Political Science and Director of the Center for the Study of Democracy and Public Life at Indiana University, Summer 2002, Social Research, “Hannah Arendt on human rights and the limits of exposure, or why Noam Chomsky is wrong about the meaning of Kosovo”

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

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

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

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

#### Realism is inevitable—states will always seek to maximize power

John Mearsheimer, Professor, University of Chicago, THE TRAGEDY OF GREAT POWER POLITICS, 2001, p. 2.

The sad fact is that international politics has always been a ruthless and dangerous business, and it is likely to remain that way. Although the intensity of their competition waxes and wanes, great powers fear each other and always compete with each other for power. The overriding goal of each state is to maximize its share of world power, which means gaining power at the expense of other states. But great powers do not merely strive to be the strongest of all the great powers, although that is a welcome outcome. Their ultimate aim is to be the hegemon-that is, the only great power in the system.

#### THE CAMPS ARE NOT THE PERMANENT RENDERING OF THE EXCEPTION OUTSIDE OF LAW, BUT THE EXCESS OF LAW ITSELF

JOHNS (Univ. of Sydney, Faculty of Law) 2006

[Fleur, “Guantanamo Bay and the Annihilation of the Exception”, European Journal of International Law, Vol. 16, No. 4 //wyo-tjc]

Is Guantánamo Bay, Cuba, as one scholar has described it, an ‘anomalous zone’?1 In international legal terms, does Guantánamo Bay embody law’s absence, suspension or withdrawal – a ‘black hole’, as the English Court of Appeal has stated?2 Is it a space that international law ‘proper’ is yet to fill and should be implored to fill – a jurisdiction maintained before the law, against the law or in spite of the law? These are some of the questions with which I began the research from which this article emanates. I commenced, too, with a sense of unease with the responses to these questions that may be elicited from the surrounding international legal literature. Implicit or explicit in most international legal writing on Guantánamo Bay is a sense that it represents an exceptional phenomenon that might be overcome by having international law scale the heights of the Bush administration’s stonewalling. Guantánamo Bay’s presence and persistence on the international legal scene, such accounts imply, may be understood as a singular, grotesque instance of law’s breakdown – an insurgence of ‘utter lawlessness’ in the words of Lord Steyn of the House of Lords.3 Of this, I am not so sure. By my reading, the plight of the Guantánamo Bay detainees is less an outcome of law’s suspension or evisceration than of elaborate regulatory efforts by a range of legal authorities. The detention camps of Guantánamo Bay are above all works of legal representation and classification. They are spaces where law and liberal proceduralism speak and operate in excess.4 This article will probe this intuition by examining law’s efforts in constituting the jurisdictional order of the Guantán amo Bay Naval Base (and, more specifically, Camps Delta and America at that Base). It will consider, in particular, the claim that the jurisdictional order of Guantánamo Bay renders permanent a state of the exception, in the sense (derived from the work of Carl Schmitt) of a space that ‘defies codification’ and subjects its occupants to the unfettered exercise of sovereign discretion.5 Such a claim has been put forward (usually without an express invocation of Schmitt) by a range of international legal commentators.6 It has also been famously put forward, with distinct and in many ways divergent implications, in the writings of Italian philosopher Giorgio Agamben. This article argues against that characterization, in both its legal scholarly and its Agamben-esque forms. It will be contended here that understanding Guantánamo Bay as a domain of sovereign exception (and, as such, of political decision-making) in a Schmittian sense is a misnomer. Rather, Guantánamo Bay may be more cogently read as the jurisdictional outcome of exhaustive attempts to domesticate the political possibilities occasioned by the experience of exceptionalism – that is, of operating under circumstances not pre-codified by pre-existing norms. Far from emboldening sovereign and non-sovereign forms of political agency under conditions of radical doubt, the legal regime of Guantánamo Bay is dedicated to producing experiences of having no option, no doubt and no responsibility. Accordingly, in Schmittian terms, the contemporary legal phenomenon that is Guantánamo Bay may be read as a profoundly anti-exceptional legal artefact. The normative regime of Guantánamo Bay is one intensely antithetical to the forms of decisional experience contemplated by Schmitt in Political Theology and to modes of decisional responsibility articulated by other writers before and since.7 It is by reason of its norm-producing effects in this respect, I would argue, that the legal regime of the Guantánamo Bay detention camps and its replication beyond Cuba merit interrogation and resistance.

#### Their demand detainees are released and returned to the normal state cause a less than radical politics that solves none of their impacts—legal fetishism reinscribes governmentality

NEOCLEOUS (Politics & History @ Brunel University) 2006

[Mark, “the Problem with Normality”, Alternatives, no. 31 //wyo-tjc]

To criticize the use of emergency powers in terms of a suspension of the law, then, is to make the mistake of counterpoising normality and emergency, law and violence. In separating “normal” from “emergency,” with the latter deemed “exceptional,” this approach parrots the conventional wisdom that posits normalcy and emergency as two discrete and separable phenomena. This essentially liberal paradigm assumes that there is such a thing as “normal” order governed by rules, and that the emergency constitutes an “exception” to this normality. “Normal” here equates with the separation of powers, entrenched civil liberties, an ongoing debate about public policy and law, and the rule of law, while “emergencies” are thought to require strong executive rule, little time for discussion, and are premised on the supposedly necessary suspension of the law and thus the discretion to suspend key liberties and rights. But this rests on two deeply ideological assumptions: first, the assumption that emergency rule is aberrational; and, second, an equation of the emergency/nonemergency dichotomy with a distinction between constitutional and nonconstitutional action. Thus liberalism seeks to separate emergency rule from the normal constitutional order, thereby preserving the Constitution in its pristine form while providing the executive with the power to act in an emergency.47 But the historical evidence suggests that emergency powers are far from exceptional; rather, they are an ongoing aspect of normal political rule. Emergency, in this sense, is what emerges from the rule of law when violence needs to be exercised and the limits of the rule of law overcome. The genealogy of “emergency” is instructive here. “Emergency” has its roots in the idea of “emerge.” The Oxford English Dictionary suggests that “emerge” connotes “the rising of a submerged body out of the water” and “the process of coming forth, issuing from concealment, obscurity, or confinement.” Both these meanings of “emerge” were once part of the meaning of “emergency,” but the first is now rare and the second obsolete. Instead, the modern meaning of “emergency” has come to the fore, namely a sudden or unexpected occurrence demanding urgent action and, politically speaking, the term used to describe a condition close to war in which the normal constitution might be suspended. But what this tells us is that in “emergency” lies the idea of something coming out of concealment or issuing from confinement by certain events. This is why “emergency” is a better category than exception: Where “emergency” has this sense of “emergent,” exception instead implies a sense of ex capere, that is, of being taken outside. Far from being outside the rule of law, emergency powers emerge from within it. They are thus as important as the rule of law to the political management of the modern state. There is, however, an even wider argument to be made. The idea that the permanent emergency involves a suspension of the law encourages the idea that resistance must involve a return to legality, a return to the normal mode of governing through the rule of law. But this involves a serious misjudgment in which it is simply assumed that legal procedures, both international and domestic, are designed to protect human rights from state violence. Law itself comes to appear largely unproblematic. What this amounts to is what I have elsewhere called a form of legal fetishism, in which law becomes a universal answer to the problems posed by power. Law is treated as an independent or autonomous reality, explained according to its own dynamics. This produces the illusion that law has a life of its own, abstracting the rule of law from its origins in class domination and oppression and obscuring the ideological mystification of these processes in the liberal trumpeting of the rule of law.48 To demand the return to the “rule of law” is to seriously misread the history of the relation between the rule of law and emergency powers and, consequently, to get sucked into a less-than-radical politics in dealing with state violence. Part of what I am suggesting is that emergency measures, as state violence, are part of the everyday exercise of powers, working alongside and from within rather than against the rule of law, as part of a unified political strategy in the fabrication of social order.

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

Schwartz 2004

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

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

#### No impact—liberal democracy solves their governmentality claims

Heins 05

Heins, Vis Prof Poli Sci @ Concordia U and Senior Fellow at the Institute for Social Research in Frankfurt, 2K5 (Volker, “Giorgio Agamben and the Current State of Affairs in Humanitarian Law and Human Rights Policy,” 6 German Law Journal No. 5, May, http://www.germanlawjournal.com/article.php?id=598)

Agamben is not interested in such weighing of costs and benefits because he assumes from the outset that taking care of the survival needs of people in distress is simply the reverse side of the modern inclination to ignore precisely those needs and turn life itself into a tool and object of power politics. By way of conclusion, I will indicate briefly how his view differs from two other, often no less shattering critiques of modern humanitarianism. Martti Koskenniemi warned that humanitarian demands and human rights are in danger of degenerating into "mere talk."[47] The recent crisis in Darfur, Sudan, can be cited as an example for a situation in which the repeated invocation of human rights standards and jus cogens norms, like those articulated in the Genocide Convention, might ultimately damage those norms themselves if states are unwilling to act on them.[48] This criticism implies that human rights should be taken seriously and applied in a reasonable manner. Both David Kennedy and Oona Hathaway have gone one step further by taking issue even with those who proved to be serious by joining treaties or engaging in advocacy. In a controversial quantitative study, Hathaway contended that the ratification of human rights treaties by sets of given countries not only did not improve human rights conditions on the ground, but actually correlated with increasing violations.[49] In a similar vein, David Kennedy radicalized Koskenniemi's point by arguing that human rights regimes and humanitarian law are rather part of the problem than part of solution, because they "justify" and "excuse" too much.[50] To some extent, this is an effect of the logic of legal reasoning: marking a line between noncombatants and combatants increases the legitimacy of attacking the latter, granting privileges to lawful combatants delegitimizes unlawful belligerents and dramatically worsens their status. On the whole, Kennedy is more concerned about the dangers of leaving human rights to international legal elites and a professional culture which is blind for the mismatch between lofty ideals and textual articulations on the one side, and real people and problems on the other side.[51] Whereas these authors reveal the "dark sides" of overly relying on human rights talk and treaties, the moral fervor of activists or the routines of the legal profession, Agamben claims that something is wrong with human rights as such, and that recent history has demonstrated a deep affinity between the protection and the infringement of these rights. Considered in this light, the effort of the British aid organization Save the Children, for instance, to help children in need both in Britain and abroad after World War I —faithful to George Bernard Shaw's saying, "I have no enemies under seven"—is only the flip side of a trend to declare total war on others regardless of their age and situation. This assertion clearly goes far beyond the voices of other pessimists. Agamben's work is understandable only against the backdrop of an entirely familiar mistrust of liberal democracy and its ability to cultivate nonpartisan moral and legal perspectives. According to Agamben, democracy does not threaten to turn into totalitarianism, but rather both regimes smoothly cross over into one another since they ultimately rest on the same foundation of a political interpretation of life itself.[52] Like Carl Schmitt, Agamben sees the invocation of human rights by democratic governments as well as the "humanitarian concept of humanity"[53] as deceptive manouvers or, at least, as acts of self-deception on the part of the liberal bourgeois subject. The difference between Agamben and Schmitt lies in the fact that Schmitt fought liberal democracy in the name of the authoritarian state, while Agamben sees democracy and dictatorship as two equally unappealing twins. Very much unlike Schmitt, the Italian philosopher confronts us with a mode of thinking in vaguely felt resemblances in lieu of distinctly perceived differences. Ultimately, he offers a version of Schmitt's theory of sovereignty that changes its political valence and downplays the difference between liberal democracy and totalitarian dictatorship—a difference about which Adorno once said that it "is a total difference. And I would say," he added, "that it would be abstract and in a problematic way fanatical if one were to ignore this difference."[54]

#### Rhetoric does not shape reality—objective reality exists outside of language

Fram-Cohen ‘85

[Michelle, “Reality, Language, Translation: What Makes Translation Possible?” American Translators Association Conference, enlightenment.supersaturated.com/essays/text/michelleframcohen//possibilityoftranslation.html, 9-24-06//uwyo-ajl]

Nida did not provide the philosophical basis of the view that the external world is the common source of all languages. Such a basis can be found in the philosophy of Objectivism, originated by Ayn Rand. Objectivism, as its name implies, upholds the objectivity of reality. This means that reality is independent of consciousness, consciousness being the means of perceiving ?reality, not of creating it. Rand defines language as "a code of visual-auditory symbols that denote concepts." (15) These symbols are the written or spoken words of any language. Concepts are defined as the "mental integration of two or more units possessing the same distinguishing characteristic(s), with their particular measurements omitted." (16) This means that concepts are abstractions of units perceived in reality. Since words denote concepts, words are the symbols of such abstractions; words are the means of representing concepts in a language. Since reality provides the data from which we abstract and form concepts, reality is the source of all words--and of all languages. The very existence of translation demonstrates this fact. If there was no objective reality, there could be no similar concepts expressed in different verbal symbols. There could be no similarity between the content of different languages, and so, no translation. Translation is the transfer of conceptual knowledge from one language into another. It is the transfer of one set of symbols denoting concepts into another set of symbols denoting the same concepts. This process is possible because concepts have specific referents in reality. Even if a certain word and the concept it designates exist in one language but not in another, the referent this word and concept stand for nevertheless exists in reality, and can be referred to in translation by a descriptive phrase or neologism. Language is a means describing reality, and as such can and should expand to include newly discovered or innovated objects in reality. The revival of the ancient Hebrew language in the late 19th Century demonstrated the dependence of language on outward reality. Those who wanted to use Hebrew had to innovate an enormous number of words in order to describe the new objects that did not confront the ancient Hebrew speakers. On the other hand, those objects that existed 2000 years ago could be referred to by the same words. Ancient Hebrew could not by itself provide a sufficient image of modern reality for modern users.

#### Scenario planning is good. In a catastrophe-ridden world—it’s vital to make predictions about the future.

Kurasawa, 2004

[Fuyuki, Professor of Sociology at York University, “Cautionary Tales: The Global Culture of Prevention

and the Work of Foresight.” 2004, Constellations, Vol. 11, No. 4]

Independently of this room for maneuver and the chances of success. Humanitarian, environmental, and techno-scientific activists have convincingly shown that we cannot afford not to engage in preventive labor. contractualist justification, global civil society actors are putting forth a number of arguments countering temporal myopia on rational grounds. They make the case that no generation, and no part of the world, is immune from catastrophe. Complacency and parochialism are deeply flawed in that even if we earn a temporary reprieve, our children and grandchildren will likely not be so fortunate unless steps are taken today. Similarly, though it might be possible to minimize or contain the risks and harms of actions to faraway places over the short-term, parrying the eventual blowback or spillover effect is improbable. In fact, as I argued in the previous section, all but the smallest and most isolated of crises are rapidly becoming globalized due to the existence of transnational circuits of ideas, images, people, and commodities. Regardless of where they live, our descendants will increasingly be subjected to the impact of environmental degradation, the spread of epidemics, gross North-South socioeconomic inequalities, refugee flows, civil wars, and genocides. What may have previously appeared to be temporally and spatially remote risks are ‘coming home to roost’ in ever faster cycles. In a word, then, procrastination makes little sense for three principal reasons: it exponentially raises the costs of eventual future action; it reduces preventive options; and it erodes their effectiveness. With the foreclosing of long-range alternatives, later generations may be left with a single course of action, namely, that of merely reacting to large-scale emergencies as they arise. We need only think of how it gradually becomes more difficult to control climate change, let alone reverse it, or to halt mass atrocities once they are underway. Preventive foresight is grounded in the opposite logic, whereby the decision to work through perils today greatly enhances both the subsequent Moreover, I would contend that farsighted cosmopolitanism is not as remote or idealistic a prospect as it appears to some, for as Falk writes, “[g]lobal justice between temporal communities, however, actually seems to be increasing, as evidenced by various expressions of greater sensitivity to past injustices and future dangers.”36 Global civil society may well be helping a new generational self-conception take root, according to which we view ourselves as the provisional caretakers of our planetary commons. Out of our sense of responsibility for the well-being of those who will follow us, we come to be more concerned about the here and now.

#### Can’t solve the impact- those who haven’t been released would be turned over to home countries that will abuse them

Fisher 13

[Max fisher, Foreign Affairs writer for the Post, April 25th, 2013, Kafka at Gitmo: Why 86 prisoners are cleared for release but might never get it, <http://www.washingtonpost.com/blogs/worldviews/wp/2013/04/25/kafka-at-gitmo-why-86-prisoners-are-cleared-for-release-but-might-never-get-it/>, uwyo//amp]

So who are the 86 detainees who have been cleared for transfer out of Guantanamo, and why are they still there? When the Obama administration came into office and took ownership of the camp, it announced its intention to close it. The administration had four ways to deal with the detainees: put them through civilian trials, put them through military tribunals, send them to a foreign country's prison system or, for a lucky few dozen, release them. The United States has since released 31 detainees to their home countries and another 40 to countries that were not their homelands, either because their home country would not accept them or because the United States believed the home country might subject them to torture or other abuses.

#### AGAMBEN IS WRONG… BIOPOWER DOESN’T CAUSE EXCEPTION OR VIOLENCE, BUT MAINTAINS LIFE

Ojakangas 05

[Mike, Helsinki Collegium for Advanced Studies, “Impossible Dialogues on Bio-Power: Agamben and Foucault,” Foucault Studies 2 (5-28), www.foucault-studies.com/no2/ojakangas1.pdf, acc. 9-24-06//uwyo-ajl]

In fact, the history of modern Western societies would be quite incomprehensible without taking into account that there exists a form of power which refrains from killing but which nevertheless is capable of directing people’s lives. The effectiveness of bio-power can be seen lying precisely in that it refrains and withdraws before every demand of killing, even though these demands would derive from the demand of justice. In biopolitical societies, according to Foucault, capital punishment could not be maintained except by invoking less the enormity of the crime itself than the monstrosity of the criminal: “One had the right to kill those who represented a kind of biological danger to others.” However, given that the “right to kill” is precisely a sovereign right, it can be argued that the bio-political societies analyzed by Foucault were not entirely bio-political. Perhaps, thereneither has been nor can be a society that is entirely bio-political. Nevertheless, the fact is that present-day European societies have abolished capital punishment. In them, there are no longer exceptions. It is the very “right to kill” that has been called into question. However, it is not called into question because of enlightened moral sentiments, but rather because of the deployment of bio-political thinking and practice. For all these reasons, Agamben’s thesis, according to which the concentration camp is the fundamental bio-political paradigm of the West, has to be corrected. The bio-political paradigm of the West is not the concentration camp, but, rather, the present-day welfare society and, instead of homo sacer, the paradigmatic figure of the bio-political society can be seen, for example, in the middle-class Swedish social-democrat. Although this figure is an object – and a product – of the huge bio-political machinery, it does not mean that he is permitted to kill without committing homicide. Actually, the fact that he eventually dies, seems to be his greatest “crime” against the machinery. (In bio-political societies, death is not only “something to be hidden away,” but, also, as Foucault stresses, the most “shameful thing of all”. ) Therefore, he is not exposed to an unconditional threat of death, but rather to an unconditional retreat of all dying. In fact, the bio-political machinery does not want to threaten him, but to encourage him, with all its material and spiritual capacities, to live healthily, to live long and to live happily – even when, in biological terms, he “should have been dead longago”. This is because biopower is not bloody power over bare life for its own sake but pure power over all life for the sake of the living. It is not power but the living, the condition of all life – individual as well as collective – that is the measure of the success of bio-power.