### **1**

#### **Interpretation – economic engagement is a subset of conditional engagement and implies a quid pro quo**

Shinn 96 [James Shinn, C.V. Starr Senior Fellow for Asia at the CFR in New York City and director of the council’s multi-year Asia Project, worked on economic affairs in the East Asia Bureau of the US Dept of State, “Weaving the Net: Conditional Engagement with China,” pp. 9 and 11, google books]

In sum, conditional engagement consists of a set of objectives, a strategy for attaining those objectives, and tactics (specific policies) for implementing that strategy.

* The objectives of conditional engagement are the ten principles, which were selected to preserve American vital interests in Asia while accommodating China’s emergence as a major power.
* The overall strategy of conditional engagement follows two parallel lines: economic engagement, to promote the integration of China into the global trading and financial systems; and security engagement, to encourage compliance with the ten principles by diplomatic and military means when economic incentives do not suffice, in order to hedge against the risk of the emergence of a belligerent China.
* The tactics of economic engagement should promote China’s economic integration through negotiations on trade liberalization, institution building, and educational exchanges. While a carrots-and-sticks approach may be appropriate within the economic arena, the use of trade sanction to achieve short-term political goals is discouraged.
* The tactics of security engagement should reduce the risks posed by China’s rapid military expansion, its lack of transparency, the proliferation of weapons of mass destruction, and transnational problems such as crime and illegal migration, by engaging in arms control negotiations, multilateral efforts, and a loosely-structured defensive military arrangement in Asia.8

[To footnotes]

8. Conditional engagement’s recommended tactics of tit-for-tat responses are equivalent to using carrots and sticks in response to foreign policy actions by China. Economic engagement calls for what is described as symmetric tit-for-tat and security engagement for asymmetric tit-for-tat. A symmetric response is one that counters a move by China in the same place, time, and manner; an asymmetric response might occur in another place at another time, and perhaps in another manner. A symmetric tit-for-tat would be for Washington to counter a Chinese tariff of 10 percent on imports for the United States with a tariff of 10 percent on imports from China. An asymmetric tit-for-tat would be for the United States to counter a Chines shipment of missiles to Iran with an American shipment of F-16s to Vietnam (John Lewis Gaddis, Strategies of Containment: A critical Appraisal of Postwar American National Security Policy. New York: Oxford University Press, (1982). This is also cited in Fareed Zakaria, “The Reagan Strategy of Containment,” Political Science Quarterly 105, no. 3 (1990), pp. 383-88).

#### Violation – the aff is not a quid pro quo offer

#### Vote negative –

#### Limits – there are an infinite number of unilateral actions a government can take – conditionality limits affs only to predictable forms of engagement in the literature,

#### Ground – unconditional engagement denies us “say no” and backlash arguments and creates an unfair division of ground

### 2

#### There will be bipartisan compromise on a long term budget

Matthews 11-13 (Laura Matthews, U.S. politics reporter for the International Business Times, “Budget Conference Committee Hopes To 'Keep Ball Rolling'” <http://www.ibtimes.com/budget-conference-committee-hopes-keep-ball-rolling-1468804> 11-13-13)AH

Further, House and Senate budget committee leaders have said they won’t waste time debating the areas where they already know there’s no agreement, but will focus on where deals can be cut.¶ “We hope that today’s meeting will keep the ball rolling,” said U.S. Rep. Paul Ryan, R-Wis., and chair of the House Budget Committee.¶ “The hard part is figuring out where we agree,” he later added.¶ Related¶ ¶ Ryan's call for compromise was echoed by Senate Budget Committee Chair Patty Murray, D-Wash., who told the conference that the highest priority is ensuring short- and medium-term needs for improving the economy are met.¶ Even so, the two are very much aware there is a chasm between them in terms of their respective budgets. Just how they will bridge that gap and reach common ground on a compromise budget before the Dec. 13 deadline is the massive task. But each side remains optimistic.¶ “Our budgets are dramatically different,” Murray said, but added that it is extremely important the two sides step out of their partisan corner and cut a deal.¶ Cutting a deal has never been easy for Democrats and Republicans, who differ greatly on taxes and spending. At the heart of past budget deal failures: programs and policies that are dear to each party's constituents: Democrats favor increasing taxes while Republicans do not; Republicans want significant cuts to entitlement programs like Medicare and Social Security, but Democrats are opposed to it. Still, Murray suggested their is a deal-point - an act by the GOP that could put things in motion:¶ “I am willing to meet Republicans halfway and make some compromises when it comes to additional spending reductions,” Murray wrote in a recent Washington Post op-ed. “Democrats won’t agree to irresponsible cuts that hurt seniors and families, but we can find responsible savings across the federal budget to get to a fair deal.”¶ “Compromise, however, runs both ways,” Murray continued. “While we scour programs to identify savings, Republicans have to work with us to scour the bloated tax code and close loopholes used by the wealthiest Americans and corporations to replace the other half of sequestration.”

#### The plan is a massive congressional fight that infects the legislative future of unrelated initiatives

LeoGrande ’12 [William M. LeoGrande School of Public Affairs American University, Professor of Government and a specialist in Latin American politics and U.S. foreign policy toward Latin America, Professor LeoGrande has been a frequent adviser to government and private sector agencies, 12/18/12, http://www.american.edu/clals/upload/LeoGrande-Fresh-Start.pdf]

Where in the executive branch will control over Cuba policy lie? Political considerations played a major role in Obama's Cuba policy during the first term, albeit not as preeminent a consideration as they were during the Clinton years. In 2009, Obama's new foreign policy team got off to a bad start when they promised Senator Menendez that they would consult him before changing Cuba policy. That was the price he extracted for providing Senate Democrats with the 60 votes needed to break a Republican filibuster on a must-pass omnibus appropriations bill to keep the government operating. For the next four years, administration officials worked more closely with Menendez, who opposed the sort of major redirection of policy Obama had promised, than they did with senators like John Kerry (D-Mass.), chair of the Foreign Relations Committee, whose views were more in line with the president's stated policy goals. At the Department of State, Assistant Secretary Arturo Valenzuela favored initiatives to improve relations with Cuba, but he was stymied by indifference or resistance elsewhere in the bureaucracy. Secretary Hillary Clinton, having staked out a tough position Cuba during the Democratic primary campaign, was not inclined to be the driver for a new policy. At the NSC, Senior Director for the Western Hemisphere Dan Restrepo, who advised Obama on Latin America policy during the 2008 campaign, did his best to avoid the Cuba issue because it was so fraught with political danger. When the president finally approved the resumption of people-to-people travel to Cuba, which Valenzuela had been pushing, the White House political team delayed the announcement for several months at the behest of Debbie Wasserman Schultz. Any easing of the travel regulations, she warned, would hurt Democrats' prospects in the upcoming mid-term elections.43 The White House shelved the new regulations until January 2011, and then announced them late Friday before a holiday weekend. Then, just a year later, the administration surrendered to Senator Rubio's demand that it limit the licensing of travel providers in exchange for him dropping his hold on the appointment of Valenzuela's replacement.44 With Obama in his final term and Vice-President Joe Biden unlikely to seek the Democratic nomination in 2016 (unlike the situation Clinton and Gore faced in their second term), politics will presumably play a less central role in deciding Cuba policy over the next four years. There will still be the temptation, however, to sacrifice Cuba policy to mollify congressional conservatives, both Democrat and Republican, who are willing to hold other Obama initiatives hostage to extract concessions on Cuba. And since Obama has given in to such hostage-taking previously, the hostage-takers have a strong incentive to try the same tactic again. The only way to break this cycle would be for the president to stand up to them and refuse to give in, as he did when they attempted to rollback his 2009 relaxation of restrictions on CubanAmerican travel and remittances. Much will depend on who makes up Obama's new foreign policy team, especially at the Department of State. John Kerry has been a strong advocate of a more open policy toward Cuba, and worked behind the scenes with the State Department and USAID to clean up the "democracy promotion" program targeting Cuba, as a way to win the release of Alan Gross. A new secretary is likely to bring new assistant secretaries, providing an opportunity to revitalize the Bureau of Western Hemisphere Affairs, which has been thoroughly cowed by congressional hardliners. But even with new players in place, does Cuba rise to the level of importance that would justify a major new initiative and the bruising battle with conservatives on the Hill? Major policy changes that require a significant expenditure of political capital rarely happen unless the urgency of the problem forces policymakers to take action.

#### Obama needs PC for negotiations

Madhani 10/17/13 (Aamer Madhani- writer for USA Today, writes about a variety of topics, including politics, current events, Congress, the government, etc, thank you for writing this article omg, “In fiscal fight, Obama steps back, looks to next battle,” <http://www.usatoday.com/story/news/politics/2013/10/17/obama-shutdown-strategy-gop/2997437/>, 10/17/13, 12:05 pm, Sundar)

¶ WASHINGTON — As the battle over the government shutdown and debt ceiling barreled toward a culminating point this week, President Obama stepped back from a debate that seemed to grow more chaotic by the day.¶ After two weeks of vowing that he would not negotiate with Republicans or pay them "a ransom" to "do their job," Obama appeared to decide that keeping an arms-length from the fight was the best strategy with an even bigger budget battle on the horizon.¶ On Thursday, he called on his allies and adversaries to look past the punditry that has declared him the winner in this battle and the Republicans losers.¶ "Let's be clear, there are no winners here," Obama said. "The last few weeks have inflicted completely unnecessary damage to our economy. We don't know the full scope of it yet, but every analyst out there believes it slowed our growth."¶ Even before Congress voted to reopen a shuttered federal government and raise the debt ceiling Wednesday night, Obama began discarding some of the sharper rhetorical darts and tried to melt into the background as the Republican leadership grappled with the reality that they would have to blink first.¶ When the president addressed reporters Wednesday night shortly after the Senate voted, he thanked Republican and Democratic leaders for ending the impasse and spoke in conciliatory terms.¶ "I am eager to work with anybody — Democrat or Republican, House or Senate members — on any idea that will grow our economy, create new jobs, strengthen the middle class, and get our fiscal house in order for the long term," Obama said. "I've never believed that Democrats have a monopoly on good ideas. And despite the differences over the issue of shutting down our government, I'm convinced that Democrats and Republicans can work together to make progress for America."¶ The president began shifting toward a longer view early in the week.¶ STORY: Congress passes deal to end shutdown, raise debt limit¶ On Monday, he commiserated with furloughed federal workers at a Washington food pantry. Later that day, he scrapped a scheduled meeting with the four top congressional leaders when it appeared talks between Senate Majority Leader Harry Reid and Senate Minority Leader Mitch McConnell were making headway — keeping the onus on Congress.¶ The following day he made only a glancing reference to the crisis at his only public appearance for the day — a ceremony to award former U.S. Army Capt. William Swenson the Medal of Honor — when he suggested that Washington could learn something from the young officer's selfless action.¶ Throughout the debate, White House officials insisted that Obama would not negotiate, even as he hosted Republican leadership for talks at the White House during the shutdown.¶ And unlike the past two standoffs over fiscal issues earlier in his administration, Obama did not dispatch Vice President Biden — who some Democrats groused gave up too much to McConnell in the earlier talks — to Capitol Hill.¶ Instead, Obama had White House chief of staff Denis McDonough and his senior adviser Rob Nabors serve as point men to deal with Congress during the crisis.¶ "It was a smart move to take a hands-off approach — particularly since the American people weren't going to be particularly thrilled with the outcome anyway," said Allan Lichtman, an expert on the American presidency at American University.¶ In the end, Obama more or less stuck to his guns and gave little to the Republicans — whose starting negotiating point included defunding implementation of the president's signature health care law — for agreeing to reopen the government or extending the borrowing authority through Feb. 7.¶ The agreement extends spending levels that were set in the 2011 fiscal battle through Jan. 15. The deal also sets a mid-December deadline for congressional budget negotiators to report on their efforts to find solutions to longer-term fiscal issues. Those talks will be led by Sen. Patty Murray D-Wash., and Rep. Paul Ryan, R-Wis.¶ The only change to the health care law Republicans were able to extract was minor: The administration will have to verify the incomes of individuals who receive federal subsidies to help pay for health insurance. McConnell offered that the deal was "far less than many of us hoped for, quite frankly, but far better than what some had sought."¶ Still, the White House wasn't exactly spiking the football in the end zone.¶ "There is a lot of work ahead of us, including our need to earn back the trust of the American people that has been lost over the last few weeks," Obama said.¶ Obama's hands-off approach may have worked for this round in part because his end goal was straight forward: sending the message that Republicans would not win concessions from him by shuttering government or threatening default.¶ It required him "to draw a line in the sand and then stand back and tell Congress that's where the line in the sand was," explained Jonathan Cowan, a former Clinton administration official and president of the centrist Democratic group the Third Way.¶ But in his next fiscal battle, Obama will have to push not only Republicans, but also the left-wing of his own party on difficult issues like entitlement and tax reform if there is any chance for a big legacy-setting budget deal that he desires.¶ "It may be that the president played it right in this round by having an intentionally more hands-off strategy," Cowan said. "But in the next round, it's imperative that President Obama call for and push aggressively for a big economic bargain."

#### Certainty is key to long term economic growth

Novack 10/16 (Janet Novack writes from D.C. about tax and retirement policy and planning, 10/16/13, “Political Uncertainty Will Continue To Stunt Economic Growth”, <http://www.forbes.com/sites/janetnovack/2013/10/16/its-the-washington-uncertainty-stupid/>, TL)

Even if, as now appears likely, Congress passes a deal to raise the debt ceiling until Feb. 7th and fund the federal government through Jan. 15th, the uncertainty emanating from Washington will continue to hold down economic growth, Moody’s Analytics Chief Economist Mark Zandi said Wednesday. “I’m increasingly of the view that the reason why our economy can’t get into a higher gear is because of the uncertainty created by Washington, that this brinkmanship which happens every 3, to 6, to 12 months is corrosive on our collective psyche and it’s weighing on our willingness and ability to take risk,’’ Zandi said during a meeting with journalists at Washington think tank Third Way. Such uncertainty doesn’t cause businesses to lay off workers, but it does cause them to delay hiring and reduces their willingness to invest in riskier areas such as research and development, he said. While acknowledging that the Affordable Care Act (a.k.a. ObamaCare) has created some “wrenching changes,” Zandi said the “uncertainty related to ObamaCare is fading fast.” He added: “The predominant contribution to uncertainty is the mess we’re in right now related to the brinkmanship. So if lawmakers decide what they’re going to do is raise the debt limit for a few months, the stock market is going to be okay, but it means we’re doomed to be in this lackluster growth. We really need for Washington to get out of the way, literally get out of the way. If they could just get off the front pages of The New York Times and Wall Street Journal…that would mean the private economy would really be taking off. I think that’s the key impediment to the ability of the private sector to really engage. “ Zandi estimates that the combination of the January 1 fiscal cliff tax hikes and the budget cuts that were agreed to in 2011 have reduced the GDP gowth rate from 3% to 1.5% a year. While that fiscal contraction was faster than he favored, Zandi said, it would be manageable if Washington would just end the uncertainty—and leave well enough alone for a few years. “I think we’ve made a lot of progress on the deficit. Deficits are coming down very rapidly, faster than people would have expected,’’ he said. The key to solving the longer term deficit issues, he added, “is establishing a stronger rate of growth and the key to doing that is getting Washington off the front page. They have to do nothing, literally nothing. No change at all for the next 3 or 4 years. Let the private economy do its thing. Let’s reconvene 3 or 4 years from now and see what it looks like.” By that time, he noted, Congress will have a better idea of whether ObamaCare has done anything to bend the health care cost curve down—crucial to controlling the long term deficit as the baby boomers move onto Medicare. Zandi isn’t the only economist to argue that Washington’s partisan wars are holding the economy back. Vanguard Group Chief Economist Joseph Davis, for example, estimates that even before the current federal shutdown/debt ceiling crisis, a Washington “Uncertainty Tax” was knocking about a percentage point off U.S. economic growth. Washington’s recurring budget wars are also changing attitudes oversees, Zandi believes. During the first crisis over raising the debt ceiling in 2011, he said, foreign investors assumed the U.S. would work it out. “This is now changing to the point where people overseas are really concerned about the dysfunctionality of the process,’’ he said. “You’re hearing increasing calls and increasing preferences to diversify away from the United States.”

#### Economic decline leads to miscalculation and crisis escalation—escalates

Harris and Burrows, ‘09 [Mathew, PhD European History at Cambridge, counselor in the National Intelligence Council (NIC) and Jennifer, member of the NIC’s Long Range Analysis Unit “Revisiting the Future: Geopolitical Effects of the Financial Crisis” <http://www.ciaonet.org/journals/twq/v32i2/f_0016178_13952.pdf>]

Increased Potential for Global Conflict Of course, the report encompasses more than economics and indeed believes the future is likely to be the result of a number of intersecting and interlocking forces. With so many possible permutations of outcomes, each with ample Revisiting the Future opportunity for unintended consequences, there is a growing sense of insecurity. Even so, history may be more instructive than ever. While we continue to believe that the Great Depression is not likely to be repeated, the lessons to be drawn from that period include the harmful effects on fledgling democracies and multiethnic societies (think Central Europe in 1920s and 1930s) and on the sustainability of multilateral institutions (think League of Nations in the same period). There is no reason to think that this would not be true in the twenty-first as much as in the twentieth century. For that reason, the ways in which the potential for greater conflict could grow would seem to be even more apt in a constantly volatile economic environment as they would be if change would be steadier. In surveying those risks, the report stressed the likelihood that terrorism and nonproliferation will remain priorities even as resource issues move up on the international agenda. Terrorism’s appeal will decline if economic growth continues in the Middle East and youth unemployment is reduced. For those terrorist groups that remain active in 2025, however, the diffusion of technologies and scientific knowledge will place some of the world’s most dangerous capabilities within their reach. Terrorist groups in 2025 will likely be a combination of descendants of long established groups\_inheriting organizational structures, command and control processes, and training procedures necessary to conduct sophisticated attacks\_and newly emergent collections of the angry and disenfranchised that become self-radicalized, particularly in the absence of economic outlets that would become narrower in an economic downturn. The most dangerous casualty of any economically-induced drawdown of U.S. military presence would almost certainly be the Middle East. Although Iran’s acquisition of nuclear weapons is not inevitable, worries about a nuclear-armed Iran could lead states in the region to develop new security arrangements with external powers, acquire additional weapons, and consider pursuing their own nuclear ambitions. It is not clear that the type of stable deterrent relationship that existed between the great powers for most of the Cold War would emerge naturally in the Middle East with a nuclear Iran. Episodes of low intensity conflict and terrorism taking place under a nuclear umbrella could lead to an unintended escalation and broader conflict if clear red lines between those states involved are not well established. The close proximity of potential nuclear rivals combined with underdeveloped surveillance capabilities and mobile dual-capable Iranian missile systems also will produce inherent difficulties in achieving reliable indications and warning of an impending nuclear attack. The lack of strategic depth in neighboring states like Israel, short warning and missile flight times, and uncertainty of Iranian intentions may place more focus on preemption rather than defense, potentially leading to escalating crises. 36 Types of conflict that the world continues to experience, such as over resources, could reemerge, particularly if protectionism grows and there is a resort to neo-mercantilist practices. Perceptions of renewed energy scarcity will drive countries to take actions to assure their future access to energy supplies. In the worst case, this could result in interstate conflicts if government leaders deem assured access to energy resources, for example, to be essential for maintaining domestic stability and the survival of their regime. Even actions short of war, however, will have important geopolitical implications. Maritime security concerns are providing a rationale for naval buildups and modernization efforts, such as China’s and India’s development of blue water naval capabilities. If the fiscal stimulus focus for these countries indeed turns inward, one of the most obvious funding targets may be military. Buildup of regional naval capabilities could lead to increased tensions, rivalries, and counterbalancing moves, but it also will create opportunities for multinational cooperation in protecting critical sea lanes. With water also becoming scarcer in Asia and the Middle East, cooperation to manage changing water resources is likely to be increasingly difficult both within and between states in a more dog-eat-dog world.

### 3

#### The Justice Department’s Office of Legal Counsel should issue a formal opinion that the President of the United States must give those who are detained indefinitely either civilian trials or release.

#### The President of the United States should comply with the opinion.

#### OLC opinions are presumptively binding and solve the case --- avoids politics

Trevor Morrison 11, Professor of Law at Columbia Law School, “LIBYA, ‘HOSTILITIES,’ THE OFFICE OF LEGAL COUNSEL, AND THE PROCESS OF EXECUTIVE BRANCH LEGAL INTERPRETATION,” Harvard Law Review Forum Vol.124:42, http://www.harvardlawreview.org/media/pdf/vol124\_forum\_morrison.pdf

Deeply rooted traditions treat the Justice Department’s Office of Legal Counsel (OLC) as the most important source of legal advice wit h- in the executive branch. A number of important norms guide the provision and handling of that advice. OLC bases its answers on its best view of the law, not merely its sense of what is plausible or arguable. 6 To ensure that it takes adequate account of competing perspectives within the executive branch, it typically requests and fully considers the views of other affected agencies before answering the questions put to it. Critically, once OLC arrives at an answer, it is treated as binding within the executive branch unless overruled by the Attorney General or the President. That power to overrule, moreover, is wielded extremely rarely — virtually never. As a result of these and related norms, and in spite of episodes like the notorious “torture memos,” OLC has earned a well-deserved reputation for providing credible, authoritative, thorough and objective legal analysis. The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President , are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

### 4

#### The plan results in catastrophic terrorism---releases vital leaders and kills intelligence gathering

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

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

#### Detention without trial is crucial to incapacitate high value terrorists

Jack Goldsmith 10, Henry L. Shattuck Professor at Harvard Law School, 10/8/10, “Don’t Try Terrorists, Lock Them Up,” http://www.nytimes.com/2010/10/09/opinion/09goldsmith.html

The real lesson of the ruling, however, is that prosecution in either criminal court or a tribunal is the wrong approach. The administration should instead embrace what has been the main mechanism for terrorist incapacitation since 9/11: military detention without charge or trial.¶ Military detention was once legally controversial but now is not. District and appellate judges have repeatedly ruled — most recently on Thursday — that Congress, in its September 2001 authorization of force, empowered the president to detain members of Al Qaeda, the Taliban and associated forces until the end of the military conflict.¶ Because the enemy in this indefinite war wears no uniform, courts have rightly insisted on high legal and evidentiary standards — much higher than what the Geneva Conventions require — to justify detention. And many detainees in cases that did not meet these standards have been released.¶ Still, while it is more difficult than ever to keep someone like Mr. Ghailani in military detention, it is far easier to detain him than to convict him in a civilian trial or a military commission. Military detention proceedings have relatively forgiving evidence rules and aren’t constrained by constitutional trial rules like the right to a jury and to confront witnesses. There is little doubt that Mr. Ghailani could be held in military detention until the conflict with Al Qaeda ends.¶ Why, then, does the Obama administration seek to prosecute him in federal court? One answer might be that trials permit punishment, including the death penalty. But the Justice Department is not seeking the death penalty against Mr. Ghailani. Another answer is that trials “give vent to the outrage” over attacks on civilians, as Judge Kaplan has put it. This justification for the trial is diminished, however, by the passage of 12 years since the crimes were committed.¶ The final answer, and the one that largely motivates the Obama administration, is that trials are perceived to be more legitimate than detention, especially among civil libertarians and foreign allies.¶ Military commissions have secured frustratingly few convictions. The only high-profile commission trial now underway — that of Omar Khadr, a Canadian who was 15 at the time he was detained — has been delayed for months. Commissions do not work because they raise scores of unresolved legal issues like the proper rules of evidence and whether material support and conspiracy, usually the main charges, can be brought in a tribunal since they may not be law-of-war violations.¶ Civilian trials in federal court, by contrast, often do work. Hundreds of terrorism-related cases in federal court have resulted in convictions since 9/11; this week, the would-be Times Square bomber, Faisal Shahzad, was sentenced to life in prison after a guilty plea.¶ But Mr. Ghailani and his fellow detainees at Guantánamo Bay are a different matter. The Ghailani case shows why the administration has been so hesitant to pursue criminal trials for them: the demanding standards of civilian justice make it very hard to convict when the defendant contests the charges and the government must rely on classified information and evidence produced by aggressive interrogations.¶ A further problem with high-stakes terrorism trials is that the government cannot afford to let the defendant go. Attorney General Eric Holder has made clear that Khalid Shaikh Mohammed, the 9/11 plotter, would be held indefinitely in military detention even if acquitted at trial. Judge Kaplan said more or less the same about Mr. Ghailani this week. A conviction in a trial publicly guaranteed not to result in the defendant’s release will not be seen as a beacon of legitimacy.¶ The government’s reliance on detention as a backstop to trials shows that it is the foundation for incapacitating high-level terrorists in this war. The administration would save money and time, avoid political headaches and better preserve intelligence sources and methods if it simply dropped its attempts to prosecute high-level terrorists and relied exclusively on military detention instead.

#### Nuclear terrorism is feasible---high risk of theft and attacks escalate

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Hundreds of scientific papers and reports have been published on nuclear terrorism. International conferences have been held on this threat with participation of Russian organizations, including IMEMO and the Institute of U.S. and Canadian Studies. Recommendations on how to combat the threat have been issued by the International Luxembourg Forum on Preventing Nuclear Catastrophe, Pugwash Conferences on Science and World Affairs, Russian-American Elbe Group, and other organizations. The UN General Assembly adopted the International Convention for the Suppression of Acts of Nuclear Terrorism in 2005 and cooperation among intelligence services of leading states in this sphere is developing.¶ At the same time, these efforts fall short for a number of reasons, partly because various acts of nuclear terrorism are possible. Dispersal of radioactive material by detonation of conventional explosives (“dirty bombs”) is a method that is most accessible for terrorists. With the wide spread of radioactive sources, raw materials for such attacks have become much more accessible than weapons-useable nuclear material or nuclear weapons. The use of “dirty bombs” will not cause many immediate casualties, but it will result into long-term radioactive contamination, contributing to the spread of panic and socio-economic destabilization.¶ Severe **consequences can be caused by sabotaging nuclear power plants, research reactors, and radioactive materials storage facilities. Large cities are especially vulnerable to such attacks. A large city may host dozens of research reactors with a nuclear power plant or a couple of spent nuclear fuel storage facilities and dozens of large radioactive materials storage facilities located nearby.** The past few years have seen significant efforts made to enhance organizational and physical aspects of security at facilities, especially at nuclear power plants. Efforts have also been made to improve security culture. But these efforts do not preclude the possibility that well-trained terrorists may be able to penetrate nuclear facilities.¶ Some estimates show that sabotage of a research reactor in a metropolis may expose hundreds of thousands to high doses of radiation. A formidable part of the city would become uninhabitable for a long time.¶ Of all the scenarios, it is building an improvised nuclear device by terrorists that poses the maximum risk. **There are no engineering problems that cannot be solved if terrorists decide to build a simple “gun-type” nuclear device.** Information on the design of such devices, as well as implosion-type devices, is available in the public domain. It is the acquisition of weapons-grade uranium that presents the sole serious obstacle. Despite numerous preventive measures taken, we cannot rule out the possibility that such materials can be bought on the black market. Theft of weapons-grade uranium is also possible. Research reactor fuel is considered to be particularly vulnerable to theft, as it is scattered at sites in dozens of countries. There are about 100 research reactors in the world that run on weapons-grade uranium fuel, according to the International Atomic Energy Agency (IAEA).¶ A terrorist “gun-type” uranium bomb can have a yield of least 10-15 kt, which is comparable to the yield of the bomb dropped on Hiroshima. The explosion of such a bomb in a modern metropolis can kill and wound hundreds of thousands and cause serious economic damage. There will also be long-term sociopsychological and political consequences.¶ The vast majority of states have introduced unprecedented security and surveillance measures at transportation and other large-scale public facilities after the terrorist attacks in the United States, Great Britain, Italy, and other countries. These measures have proved burdensome for the countries’ populations, but the public has accepted them as necessary. A nuclear terrorist attack will make the public accept further measures meant to enhance control even if these measures significantly restrict the democratic liberties they are accustomed to. Authoritarian states could be expected to adopt even more restrictive measures.¶ If a nuclear terrorist act occurs, nations will delegate tens of thousands of their secret services’ best personnel to investigate and attribute the attack. Radical Islamist groups are among those capable of such an act. We can imagine what would happen if they do so, given the anti-Muslim sentiments and resentment that conventional terrorist attacks by Islamists have generated in developed democratic countries. Mass deportation of the non-indigenous population and severe sanctions would follow such an attack in what will cause **violent protests in the Muslim world**. **Series of armed clashing terrorist attacks may follow**. The prediction that Samuel Huntington has made in his book “The Clash of Civilizations and the Remaking of World Order” may come true. Huntington’s book clearly demonstrates that it is not Islamic extremists that are the cause of the Western world’s problems. Rather there is a deep, intractable conflict that is rooted in the fault lines that run between Islam and Christianity. This is especially dangerous for Russia because these fault lines run across its territory. To sum it up, the political leadership of Russia has every reason to revise its list of factors that could undermine strategic stability.  BMD does not deserve to be even last on that list because its effectiveness in repelling massive missile strikes will be extremely low. BMD systems can prove useful only if deployed to defend against launches of individual ballistic missiles or groups of such missiles. Prioritization of other destabilizing factors—that could affect global and regional stability—merits a separate study or studies. But even without them I can conclude that nuclear terrorism should be placed on top of the list. The threat of nuclear terrorism is real, and a successful nuclear terrorist attack would lead to a radical transformation of the global order.  All of the threats on the revised list must become a subject of thorough studies by experts. States need to work hard to forge a common understanding of these threats and develop a strategy to combat them.

#### Terrorism studies are epistemologically and methodologically valid---our authors are self-reflexive

Michael J. Boyle '8, School of International Relations, University of St. Andrews, and John Horgan, International Center for the Study of Terrorism, Department of Psychology, Pennsylvania State University, April 2008, “A Case Against Critical Terrorism Studies,” Critical Studies On Terrorism, Vol. 1, No. 1, p. 51-64

 Jackson (2007c) calls for the development of an explicitly CTS on the basis of what he argues preceded it, dubbed ‘Orthodox Terrorism Studies’. The latter, he suggests, is characterized by: (1) its poor methods and theories, (2) its state centricity, (3) its problemsolving orientation, and (4) its institutional and intellectual links to state security projects. Jackson argues that the major defining characteristic of CTS, on the other hand, should be ‘a skeptical attitude towards accepted terrorism “knowledge”’. **An implicit presumption from this is that terrorism scholars have laboured for all of these years without being aware that their area of study has an implicit bias, as well as definitional and methodological** **problems**. In fact**, terrorism scholars are not only well aware of these problems, but also have provided their own** searching **critiques** of the field at various points during the last few decades (e.g. Silke 1996, Crenshaw 1998, Gordon 1999, Horgan 2005, esp. ch. 2, ‘Understanding Terrorism’). **Some of those scholars** most associated with the critique of empiricismimplied in ‘Orthodox Terrorism Studies’ **have also engaged in deeply critical examinations of the nature of sources, methods, and data in the study of terrorism**. For example, Jackson (2007a) regularly cites the handbook produced by **Schmid and Jongman** (1988) to support his claims that theoretical progress has been limited. But this fact was well recognized by the authors; indeed, in the introduction of the second edition they **point out** that they have not revised their chapter on theories of terrorism from the first edition, because the **failure to address** persistent conceptual and **data problems** has undermined progress in the field. The point of their handbook was to sharpen and make more comprehensive the result of research on terrorism, not to glide over its methodological and definitional failings (Schmid and Jongman 1988, p. xiv). Similarly, **Silke’s** (2004) **volume on the state of the field of terrorism research performed a similar function**, highlighting the shortcomings of the field, in particular the lack of rigorous primary data collection. **A non-reflective community of scholars does not produce such scathing indictments of its own work.**

#### Nuke terror causes extinction---equivalent to full-scale nuclear war

Owen B. Toon 7, chair of the Department of Atmospheric and Oceanic Sciences at CU-Boulder, et al., April 19, 2007, “Atmospheric effects and societal consequences of regional scale nuclear conflicts and acts of individual nuclear terrorism,” online: http://climate.envsci.rutgers.edu/pdf/acp-7-1973-2007.pdf

To an increasing extent, people are congregating in the world’s great urban centers, creating megacities with populations exceeding 10 million individuals. At the same time, advanced technology has designed nuclear explosives of such small size they can be easily transported in a car, small plane or boat to the heart of a city. We demonstrate here that a single detonation in the 15 kiloton range can produce urban fatalities approaching one million in some cases, and casualties exceeding one million. Thousands of small weapons still exist in the arsenals of the U.S. and Russia, and there are at least six other countries with substantial nuclear weapons inventories. In all, thirty-three countries control sufficient amounts of highly enriched uranium or plutonium to assemble nuclear explosives. A conflict between any of these countries involving 50-100 weapons with yields of 15 kt has the potential to create fatalities rivaling those of the Second World War. Moreover, even a single surface nuclear explosion, or an air burst in rainy conditions, in a city center is likely to cause the entire metropolitan area to be abandoned at least for decades owing to infrastructure damage and radioactive contamination. As the aftermath of hurricane Katrina in Louisiana suggests, the economic consequences of even a localized nuclear catastrophe would most likely have severe national and international economic consequences. Striking effects result even from relatively small nuclear attacks because low yield detonations are most effective against city centers where business and social activity as well as population are concentrated. Rogue nations and terrorists would be most likely to strike there. Accordingly, an organized attack on the U.S. by a small nuclear state, or terrorists supported by such a state, could generate casualties comparable to those once predicted for a full-scale nuclear “counterforce” exchange in a superpower conflict. Remarkably, the estimated quantities of smoke generated by attacks totaling about one megaton of nuclear explosives could lead to significant global climate perturbations (Robock et al., 2007). While we did not extend our casualty and damage predictions to include potential medical, social or economic impacts following the initial explosions, such analyses have been performed in the past for large-scale nuclear war scenarios (Harwell and Hutchinson, 1985). Such a study should be carried out as well for the present scenarios and physical outcomes.

**Terrorism causes extinction---hard-line responses are key**

Nathan **Myhrvold '13**, Phd in theoretical and mathematical physics from Princeton, and founded Intellectual Ventures after retiring as chief strategist and chief technology officer of Microsoft Corporation , July 2013, "Stratgic Terrorism: A Call to Action," The Lawfare Research Paper Series No.2, <http://www.lawfareblog.com/wp-content/uploads/2013/07/Strategic-Terrorism-Myhrvold-7-3-2013.pdf>

Several powerful trends have aligned to profoundly change the way that the world works. Technology ¶ now allows stateless groups to organize, recruit, and fund ¶ themselves in an unprecedented fashion. That, coupled ¶ with the extreme difficulty of finding and punishing a stateless group, means that stateless groups are positioned to be ¶ lead players on the world stage. They may act on their own, ¶ or they may act as proxies for nation-states that wish to ¶ duck responsibility. Either way, stateless groups are forces ¶ to be reckoned with.¶ At the same time, a different set of technology trends ¶ means that small numbers of people can obtain incredibly ¶ lethal power. Now, for the first time in human history, a ¶ small group can be as lethal as the largest superpower. Such ¶ a group could execute an attack that could kill millions of ¶ people. It is technically feasible for such a group to kill billions of people, to end modern civilization—perhaps even ¶ to drive the human race to extinction. Our defense establishment was shaped over decades to ¶ address what was, for a long time, the only strategic threat ¶ our nation faced: Soviet or Chinese missiles. More recently, ¶ it has started retooling to address tactical terror attacks like ¶ those launched on the morning of 9/11, but the reform ¶ process is incomplete and inconsistent. A real defense will ¶ require rebuilding our **military and intelligence capabilities** from the ground up. Yet, so far, strategic terrorism has ¶ received relatively little attention in defense agencies, and ¶ the efforts that have been launched to combat this existential threat seem fragmented.¶ History suggests what will happen. The only thing that shakes America out of complacency is a direct threat from a determined adversary that confronts us with our shortcomings by **repeatedly attacking** us or hectoring **us for decades**.

**Solving the root causes of terrorism is impossible because of expansive jihadist demands---the aff’s attempt at reconciliation collapses causes global violence**

Peter **Beinart 8**, associate professor of journalism and political science at CUNY, The Good Fight; Why Liberals – and only Liberals – Can Win the War on Terror and Make America Great Again, 100-2

While different U.S. policies may be more or less important at differ- ent times, most experts agree that it is American actions (“what we do”), not American values (“who were are”) that have made the United States the target of salafist jihad. While in his ideal world Bin Laden would cer- tainly like to see the United States ditch its barbaric culture and convert to Islam, that is low on his list of concerns. As he himself has pointed out, if Al Qaeda were offended primarily by the licentiousness Western societies practice at home, it would have attacked Sweden. ¶ The problem is that while salafists might theoretically leave the United States alone if we left them alone, their concerns are vast and their hostility to liberal values is profound. Salafism is not a universalist ideology in the way that Communism was. (That is not to say its devotees do not dream of a world completely under God’s rule—they do—only that the cultural barriers preventing, say, an Argentinean from adopting the religion of Qutb are far greater than the barriers preventing him from adopting the religion of Marx.) But neither is salafism easy to avoid. Bin Laden has said the United States can escape “this ordeal” of terrorism if “it leaves the Arabian Peninsula, and stops its involvement in Palestine, and in all the Islamic world.” Unfortunately, Zawahiri, his second in command, has defined the Islamic world as stretching from “Eastern Turkestan [ Xinjiang, in western China] to Andalusia [Spain and Portugal].” Azzam has gone further, including among the territory that must be “returned to us so that Islam will reign again” sub- Saharan African countries like Chad, Eritrea, and Somalia and Asian nations like Burma and the Philippines. Salafists want to restore the caliphate that once ruled much of the Islamic world. But even at its eighth- century peak, the caliphate only stretched from In- dia to Spain. Under Al Qaeda’s more expansive definition, it seems to include every country or region once under Muslim rule. To comply with those terms, the United States would have to **retreat** virtually **to the Western Hemisphere.** ¶ Needless to say, for the United States to withdraw from a swath of territory stretching from West Africa to Southeast Asia would constitute a geostrategic revolution. American power is the guarantor of last resort for the government of Pakistan, which has nuclear weapons, a volatile border with nuclear- armed India, and salafist elements in its security services. It plays the same role in Jordan and Egypt, the lynchpins of peace between Israel and the Arab world. And, of course, America protects the Saudi monarchy, whose kingdom sits atop one quarter of the world’s proven oil reserves. As the Bush administration has rightly recognized, these relation- ships are unsustainable in their current form, and America’s long-t erm safety requires that its clients evolve in a democratic direction, even if it means they prove less compliant. But were the jihadist movement to force the United States to withdraw its military, political, or economic influence ¶ from these crucial areas—producing governments with dramatically dif- ferent orientations—**the consequences for American security, the world economy, and regional peace could be grave**. ¶ And a withdrawal from the Muslim world would not only imperil American interests, it would also imperil American values. Al Qaeda may not hate us for “who we are”—unless “who we are” obligates us to oppose what might be called “religious cleansing,” the violent purification of large swaths of the globe. After all, **if the U**nited **S**tates **withdrew from its war against salafism, salafism would still be at war**. Al Qaeda’s ultimate goal is not to expel the United States from Islamic lands; it is to establish a new caliphate that ushers in God’s rule on earth. And the many enemies of that effort—non- Muslims, apostate Muslims, liberated female Muslims, gay and lesbian Muslims—would still blemish the Islamic world, representing jahiliyyah in its myriad sinful forms. ¶ Where those enemies have no army to defend them, the result has been terror. Where they do, the result has been endless war. It is a virtual axiom of international politics that salafists will try to seize control of any local conflict—from the Philippines to Chechnya to Kashmir to Iraq—that pits Sunni Muslims against their neighbors. And the more they succeed, the less likely it is that such a conflict will end. Many Muslims, including many non-s alafist Islamists, also support Muslim insurgencies around the world. In Iraq, they may support attacks on American troops. But since they see jihad as a means to some concrete goal, political compromise is possible. Salafists, however, who see jihad as a means to usher in a messianic age, will accept no outcome that leaves Muslims under non- Muslim rule, because such a compromise threatens the path to paradise.

### Case

#### Value to life is subjective --- life is a prerequisite

Lisa Schwartz 2, Chair at the Centre for Health Economics and Policy Analysis,

“Medical Ethic: A Case Based Approach” Chapter 6, www.fleshandbones.com/readingroom/pdf/399.pdf

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.

#### The prisoners are not bare life—there are rules that prevent true reduction

Halit Tagma 09, Professor of Political Science, Arizona State , “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror,” Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pp. 407-435

Thus in some respects, prisoners of the "war on terror" might be understood as homo sacer. However, there are also particularities in the way the prisoners are handled that call for a critical re-evaluation of the (non) space of Guántanamo. If in the classical Foucauldian teminology sovereign power is about "taking or granting life," and biopower is about "letting live and making life," then what can be said about the power operating in Guántanamo that "forces to live" when prisoners are carefully controlled to prevent them from committing suicide. Indeed, the prisoners of Guántanamo are force fed and even given mandatory health checks so as to insure they are kept, barely, alive. Unlike the homo sacer who may be killed but not sacrificed, the prisoners in Guantánamo may not be killed or sacrificed. In fact, extensive efforts are spent to keep the prisoners at Guantánamo alive, such as the creation of operating rooms for major health emergencies as well as facilities for dentistry. The prisoners are given health treatment similar to that provided to the troops at the base.60 No doubt the display of such "health benefits" could be read as window dressing conducted by the camp administrators. However, it is important to note that there are indeed serious efforts to keep the prisoners (often barely, but nevertheless) alive. Furthermore, punishment and interro- gation are orchestrated so that the use of violence does not result in death. Extensive efforts are made to prevent the prisoners from com- mitting suicide. In other cases, hunger-striking inmates have met with brutal forced feeding.61 Thus, in a striking unclassified army document that outlines procedures in Guántanamo Bay, guards are ordered to "defend detainees as you would yourself against a hostile act or intent, death, or serious bodily harm."62 Therefore it is correct to say that what goes in Guantánamo Bay is neither "letting live" nor "taking life," but instead "making live," or even "forcing to live."¶ Agamben argues that camps are places where sovereign "power confronts nothing but pure life."63 Guantánamo Bay, declared as being beyond the reach of law, is, in fact, regulated by many petty regulations that are characteristic of disciplinary power. Reading the re- ports of the Joint Task Force and prisoner testimonies, one comes to the conclusion that there is a plethora of rules and procedures that govern the treatment of Guántanamo prisoners.64 Whereas Agamben's statement on "zones of indistinction" would lead us to think that any- thing goes in the camp, this is far from the reality of Guántanamo. Every minuscule element of the lives of Guántanamo prisoners been planned and is, for the most part, regulated by a written a code of conduct. Many foreseeable and probable occurrences that would be expected in a prison population have been forethought and written into a manual. Titled Standard Operating Procedures this 250-page manual outlines the rules, regulations, and procedures for treatment of prisoners in many probable circumstances.65 The manual outlines, for example, what to do if there is a petty riot, when and how to spray pepper spray on rioters, religious burials rituals for prisoners, and so on.66 This clearly hints that it is not just an exceptional sovereign power at work in Guántanamo, as exemplified in Rumsfeldian rhetorical salvos on "exceptional times requiring exceptional measures." In- stead, there are multiple technologies of power that are at work in the day-to-day administration of this space.67

#### Numerous cultural and historical factors have gone into Guantanamo—that means the aff can’t solve broader violence and there is no broader impact

Halit Tagma 09, Professor of Political Science, Arizona State , “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror,” Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pp. 407-435

Sovereign decisions are always already informed by historical and cultural understandings as to who counts as a member of the "good species." The "good species," "the inside," and the body politic have been constructed by colonial discourse. As Roxanne Doty has pointed out, colonial discourse has had a vital role in the construction of Western nations. She further points out that race, religion, and other marks of difference have played an important role in national classification.94 The treatment of faraway people as inferior and exotic has played an important role in nation building in its classic sense. Therefore, who counts as a citizen, a "legitimate" member of a "legitimate" nation, is the product and effect of centuries of interaction of the West with its others. Understood in this sense, sovereign decisions (whether made at the top or bottom level) are informed and shaped by a cultural and colonial history. This is neglected in Agamben's grand analysis of Western politics. Therefore, sovereign power needs the classification, hierarchization, and othering provided by a regime of truth in order to conduct its violent power. Only certain types of people could be rendered as bare life and thrown into a zone of indistinction. Understood this way, it is easier to comprehend the "smooth" production of homines sacri out of Middle Eastern subjects.¶ In the early stages of the war in Afghanistan, as Michael Ratner and Ellen Ray point out, tens of thousands of people were collected by the Northern Alliance.95 Among the collected were ordinary foreign aid workers, refugees, and probable fighters of the Taliban regime. They were sold from $50 to $5,000 per head to Coalition Forces.96 Even though there was no real investigation based on tangible and concrete evidence, some these captives were flown to Guantánamo. As Fox points out, if the prisoners were wearing a Casio brand watch, this meant an higher prize in the eyes of the interrogators, as it signaled that the prisoner was a probable AI Qaeda bombmaker.97 The small difference between wearing a Casio watch in some parts of the world, as opposed to others, is at the ground level what makes it possible for a body to be become a homo sacer. They can then be flown off to an unknown place to face an unknown future that get read and interpreted by petty sovereigns. Such differences in- form the decisions that render bodies as homo sacer, which are thrown into a zone of indistinction. In the modern age, no doubt, Agamben would argue that even the body of a soccer mom - an obedient national flag-waving subject - has entered into political and strategic calculations. However, the soccer mom is not exposed to the violence of homo sacer. Regimes of truth and disciplines produce hierarchically ordered subject positions, and this is an aspect of biopower. The theoretical priority that Agamben gives to sovereign power is reversed when it is shown that biopower makes it possible for the petty agents of the state to conduct sovereign violence. Sovereign power is informed and shaped by biopower.

####  This flips your ethics

**Browne 95** – former Libertarian Party candidate and Director of Public Policy, American Liberty Foundation (Harry, Why Government Doesn’t Work, p 19-20, AG)

To get it enacted you’ll need political allies, since alone you have only limited influence. But other people will support your plan and work for it only if you modify it in dozens of ways that further their goals and satisfy their opinions. Suppose you make the necessary compromises and amass enough support to pressure the politicians to vote for your revised program. Who will write the actual law? You? Of course not. It will be written by the same legislators and aides who created all the laws, programs, and problems you object to now. Each of them will compromise your program still further to satisfy his political supporters. And if the law passes, who will administer it? You? Of course not. It will be implemented by bureaucrats — many of whom will use it to pursue goals quite different from what you had in mind. They won’t care what your purpose was. It’s their law now, and they’ll use it to suit their objectives. And, lastly, the new law probably will generate many disputes — cases that must be settled in a courtroom. Who will decide those cases? You? Of course not. It will be the same judges who today rule according to their own beliefs, rather than by reference to the written law. A judge may even rule that your law means exactly the opposite of what you had intended. By the time your program has run this gauntlet, it will be far bigger and far more expensive (in money and disrupted lives) than you had imagined. And it will have been twisted to satisfy many factions. In fact, **your program may end up** being **the opposite of what you** had **intended.**

**Solving the root causes of terrorism is impossible because of expansive jihadist demands---the aff’s attempt at reconciliation collapses causes global violence**

Peter **Beinart 8**, associate professor of journalism and political science at CUNY, The Good Fight; Why Liberals – and only Liberals – Can Win the War on Terror and Make America Great Again, 100-2

While different U.S. policies may be more or less important at differ- ent times, most experts agree that it is American actions (“what we do”), not American values (“who were are”) that have made the United States the target of salafist jihad. While in his ideal world Bin Laden would cer- tainly like to see the United States ditch its barbaric culture and convert to Islam, that is low on his list of concerns. As he himself has pointed out, if Al Qaeda were offended primarily by the licentiousness Western societies practice at home, it would have attacked Sweden. ¶ The problem is that while salafists might theoretically leave the United States alone if we left them alone, their concerns are vast and their hostility to liberal values is profound. Salafism is not a universalist ideology in the way that Communism was. (That is not to say its devotees do not dream of a world completely under God’s rule—they do—only that the cultural barriers preventing, say, an Argentinean from adopting the religion of Qutb are far greater than the barriers preventing him from adopting the religion of Marx.) But neither is salafism easy to avoid. Bin Laden has said the United States can escape “this ordeal” of terrorism if “it leaves the Arabian Peninsula, and stops its involvement in Palestine, and in all the Islamic world.” Unfortunately, Zawahiri, his second in command, has defined the Islamic world as stretching from “Eastern Turkestan [ Xinjiang, in western China] to Andalusia [Spain and Portugal].” Azzam has gone further, including among the territory that must be “returned to us so that Islam will reign again” sub- Saharan African countries like Chad, Eritrea, and Somalia and Asian nations like Burma and the Philippines. Salafists want to restore the caliphate that once ruled much of the Islamic world. But even at its eighth- century peak, the caliphate only stretched from In- dia to Spain. Under Al Qaeda’s more expansive definition, it seems to include every country or region once under Muslim rule. To comply with those terms, the United States would have to **retreat** virtually **to the Western Hemisphere.** ¶ Needless to say, for the United States to withdraw from a swath of territory stretching from West Africa to Southeast Asia would constitute a geostrategic revolution. American power is the guarantor of last resort for the government of Pakistan, which has nuclear weapons, a volatile border with nuclear- armed India, and salafist elements in its security services. It plays the same role in Jordan and Egypt, the lynchpins of peace between Israel and the Arab world. And, of course, America protects the Saudi monarchy, whose kingdom sits atop one quarter of the world’s proven oil reserves. As the Bush administration has rightly recognized, these relation- ships are unsustainable in their current form, and America’s long-t erm safety requires that its clients evolve in a democratic direction, even if it means they prove less compliant. But were the jihadist movement to force the United States to withdraw its military, political, or economic influence ¶ from these crucial areas—producing governments with dramatically dif- ferent orientations—**the consequences for American security, the world economy, and regional peace could be grave**. ¶ And a withdrawal from the Muslim world would not only imperil American interests, it would also imperil American values. Al Qaeda may not hate us for “who we are”—unless “who we are” obligates us to oppose what might be called “religious cleansing,” the violent purification of large swaths of the globe. After all, **if the U**nited **S**tates **withdrew from its war against salafism, salafism would still be at war**. Al Qaeda’s ultimate goal is not to expel the United States from Islamic lands; it is to establish a new caliphate that ushers in God’s rule on earth. And the many enemies of that effort—non- Muslims, apostate Muslims, liberated female Muslims, gay and lesbian Muslims—would still blemish the Islamic world, representing jahiliyyah in its myriad sinful forms. ¶ Where those enemies have no army to defend them, the result has been terror. Where they do, the result has been endless war. It is a virtual axiom of international politics that salafists will try to seize control of any local conflict—from the Philippines to Chechnya to Kashmir to Iraq—that pits Sunni Muslims against their neighbors. And the more they succeed, the less likely it is that such a conflict will end. Many Muslims, including many non-s alafist Islamists, also support Muslim insurgencies around the world. In Iraq, they may support attacks on American troops. But since they see jihad as a means to some concrete goal, political compromise is possible. Salafists, however, who see jihad as a means to usher in a messianic age, will accept no outcome that leaves Muslims under non- Muslim rule, because such a compromise threatens the path to paradise.

#### The state of exception can be contained

Jennifer Mitzen 11, PhD, University of Chicago, Associate Professor of Political Science at Ohio State University, Michael E. Newell, “Crisis Authority, the War on Terror and the Future of Constitutional Democracy,” PDF

But what Agamben has potentially overlooked is the conversation between the government, public and media concerning the state of exception. Waever’s desecuritization theory tells us that it is possible for continued debate and media coverage to desecuritize a threat in whole or in part (Waever, 1995). As the War on Terror progressed, more academics and government officials began to speak out against the usefulness of interrogations, the reality of the terrorist threat and the morality of the administration’s policies. Some critics suggested that the terrorist threat was not as imminent as the Administration made it appear, and that “…fears of the omnipotent terrorist…may have been overblown, the threat presented within the United States by al Qaeda greatly exaggerated” (Mueller, 2006). Indeed, as Mueller points out, there have been no terrorist attacks in the United States five years prior and five years after September 11th. The resignation of administration officials, such as Jack Goldsmith, who, it was later learned, sparred with the administration over Yoo’s torture memos, their wiretapping program and their trial of suspected terrorists also contributed to this shift in sentiment (Rosen, 2007). The use of the terms “torture,” and “prisoner abuse,” that began to surface in critical media coverage of the War on Terror framed policies as immoral. As the public gradually learned more from media coverage, academic discourse, and protests from government officials, the administration and its policies saw plummeting popularity in the polls. Two-thirds of the country did not approve of Bush’s handling of the War on Terror by the end of his presidency (Harris Poll) and as of February 2009 two-thirds of the country wanted some form of investigation into torture and wiretapping policies (USA Today Poll, 2009).¶ In November 2008 a Democratic President was elected and Democrats gained substantial ground in Congress partly on promises of changing the policies in the War on Terror. Republican presidential nominees, such as Mitt Romney, who argued for the continuance of many of the Bush administration’s policies in the War on Terror, did not see success at the polls. Indeed, this could be regarded as Waever’s “speech-act failure” which constitutes the moment of desecuritization (Waever, 1995). In this sense, Agamben’s warning of “pure de-facto rule” in the War on Terror rings hollow because of one single important fact: the Bush administration peacefully transferred power to their political rivals after the 2008 elections. The terrorist threat still lingers in the far reaches of the globe, and a strictly Agamben-centric analysis would suggest that the persistence of this threat would allow for the continuance of the state of exception. If Agamben was correct that the United States was under “pure de-facto rule” then arguably its rulers could decide to stay in office and to use the military to protect their position. Instead, Bush and his administration left, suggesting that popular sovereignty remained intact.

#### The prisoners are not bare life—there are rules that prevent true reduction

Halit Tagma 09, Professor of Political Science, Arizona State , “Homo Sacer vs. Homo Soccer Mom: Reading Agamben and Foucault in the War on Terror,” Alternatives: Global, Local, Political, Vol. 34, No. 4 (Oct.-Dec. 2009), pp. 407-435

Thus in some respects, prisoners of the "war on terror" might be understood as homo sacer. However, there are also particularities in the way the prisoners are handled that call for a critical re-evaluation of the (non) space of Guántanamo. If in the classical Foucauldian teminology sovereign power is about "taking or granting life," and biopower is about "letting live and making life," then what can be said about the power operating in Guántanamo that "forces to live" when prisoners are carefully controlled to prevent them from committing suicide. Indeed, the prisoners of Guántanamo are force fed and even given mandatory health checks so as to insure they are kept, barely, alive. Unlike the homo sacer who may be killed but not sacrificed, the prisoners in Guantánamo may not be killed or sacrificed. In fact, extensive efforts are spent to keep the prisoners at Guantánamo alive, such as the creation of operating rooms for major health emergencies as well as facilities for dentistry. The prisoners are given health treatment similar to that provided to the troops at the base.60 No doubt the display of such "health benefits" could be read as window dressing conducted by the camp administrators. However, it is important to note that there are indeed serious efforts to keep the prisoners (often barely, but nevertheless) alive. Furthermore, punishment and interro- gation are orchestrated so that the use of violence does not result in death. Extensive efforts are made to prevent the prisoners from com- mitting suicide. In other cases, hunger-striking inmates have met with brutal forced feeding.61 Thus, in a striking unclassified army document that outlines procedures in Guántanamo Bay, guards are ordered to "defend detainees as you would yourself against a hostile act or intent, death, or serious bodily harm."62 Therefore it is correct to say that what goes in Guantánamo Bay is neither "letting live" nor "taking life," but instead "making live," or even "forcing to live."¶ Agamben argues that camps are places where sovereign "power confronts nothing but pure life."63 Guantánamo Bay, declared as being beyond the reach of law, is, in fact, regulated by many petty regulations that are characteristic of disciplinary power. Reading the re- ports of the Joint Task Force and prisoner testimonies, one comes to the conclusion that there is a plethora of rules and procedures that govern the treatment of Guántanamo prisoners.64 Whereas Agamben's statement on "zones of indistinction" would lead us to think that any- thing goes in the camp, this is far from the reality of Guántanamo. Every minuscule element of the lives of Guántanamo prisoners been planned and is, for the most part, regulated by a written a code of conduct. Many foreseeable and probable occurrences that would be expected in a prison population have been forethought and written into a manual. Titled Standard Operating Procedures this 250-page manual outlines the rules, regulations, and procedures for treatment of prisoners in many probable circumstances.65 The manual outlines, for example, what to do if there is a petty riot, when and how to spray pepper spray on rioters, religious burials rituals for prisoners, and so on.66 This clearly hints that it is not just an exceptional sovereign power at work in Guántanamo, as exemplified in Rumsfeldian rhetorical salvos on "exceptional times requiring exceptional measures." In- stead, there are multiple technologies of power that are at work in the day-to-day administration of this space.67