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\*\*\*Nate Cohn style 1AC\*\*\*

Nate Cohn Style 1AC (1/16)

Plan Text: In the next available test case, the United States Supreme Court should rule that the United States federal government must close the detention center located at Bagram Airbase on the grounds that detention at Bagram Airbase violates the International Convention Against Torture.

Contention 1: International Law

Treatment of prisoners at Bagram airbase violates international law

Zalman 2007(Marvin, Professor of Criminal Justice @ Wayne State, Criminal Procedure: Constitution and Society, <http://terrorism.about.com/od/issuestrends/a/TortureTerror2_3.htm>, Waldman)

In international law both torture and “other cruel, inhuman or degrading treatment or punishment” or “inhuman treatment” are forbidden. 3 The European Court of Human Rights stated that the “difference between torture and inhuman treatment ‘derives principally from a difference in the intensity of the suffering inflicted.’” 4 Torture is absolutely prohibited for all reasons. The International Convention Against Torture (CAT) states: “No exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.” Signatories to CAT, like the United States must “undertake to prevent” inhuman treatment, but the “no exceptional circumstances” statement that applies to torture is omitted. 5 This does not condone cruel, inhuman or degrading treatment. Planning, authorizing or carrying out torture is a war crime. 6 The United States is a CAT signatory. The Senate ratification softened the international definition by providing that torture includes the *intent* to inflict severe physical or mental pain and by narrowing the definition of mental pain. Commenting on the news reports of treatment of Al Qaeda prisoners at Bagram air base, Prof. John Parry concludes that if true, they “reveal that the United States is involved or implicated in a range of interrogation practices that are illegal under domestic and international law.” 7

And, the UN delineates Bagram as in clear violation of international law

Khan 2010 (Badriya, Veteran Political Analyst for In Depth News “UN Asks U.S. To ‘Stop Secret Detention and Abuse’” <http://www.indepthnews.net/news/news.php?key1=2010-01-28%2000:23:02&key2=1> Waldman)

The UN has called on U.S. and other countries to put an end to their secret detention policies and human rights abuses in their so-called global war on terrorism. It has failed, however, to demand the immediate closure of two major U.S. “public” detention centres -- Guantanamo and Bagram, where human rights have been systematically violated, reaching the threshold of ‘crimes against humanity’. “Despite the fact that international law clearly prohibits secret detention, the practice is widespread and ‘reinvigorated’ by the so-called global war on terror,” said UN independent experts. In a 222-page study, to be presented to the UN Human Rights Council in March, the UN experts conclude, “secret detention is irreconcilably in violation of international human rights law including during states of emergency and armed conflict.” Though the study does not explicitly mention specific countries, it is clearly referring to the U.S. and its allies, mainly Western powers, which carried out and/or participated in this kind of prohibited practices. ‘CRIME AGAINST HUMANITY’ “Likewise, it is in violation of international humanitarian law during any form of armed conflict.” The study, elaborated by UN experts on counter-terrorism and torture, and the two UN expert bodies on arbitrary detention and enforced or involuntary disappearances, was announced on Jan 22. In it, the UN experts alert, “If resorted to in a widespread or systematic manner, secret detention might reach the threshold of a crime against humanity.” GUANTANAMO Though focussed on the secret detention centres, this last sentence (crime against humanity) describes properly the situation in the U.S. Guantanamo Bay detainment facility, located in Cuba.  This detention camp has been operated by Joint Task Force Guantanamo of the U.S. administration since 2002 on its Naval Base. The detainment areas consist of three camps: Camp Delta (which includes Camp Echo), Camp Iguana, and Camp X-Ray, the last of which has been closed.  After the U.S. Justice Department advised that the Guantanamo Bay Detention Camp could be considered outside U.S. legal jurisdiction, prisoners captured in Afghanistan were moved there beginning of 2002. The administration of previous White House occupant asserted that detainees were not entitled to any of the protections of the Geneva Conventions.  Therefore, the widely denounced detentions without charges and practices of torture against detainees have escaped all international human and legal laws and conventions. Since October 7, 2001, when the current war on Afghanistan began, 775 detainees have been brought to Guantanamo. Of these, some 420 have been released without charge. In January 2009, around 245 detainees remained. This number further decreased to 215 by November 2009. During his electoral campaign, President Barack Obama announced he would close Guantanamo detention camp by June 2009.  All that the current White House chief has done so far is to issue a Presidential Memorandum on December15, 2009 ordering the preparation of the Thomson Correctional Center, Thomson, Illinois so as to enable the transfer of Guantanamo prisoners there. BAGRAM The UN reference to “crime against humanity” would also properly apply to the case of another major U.S. “public” detention -- Bagram. Torture and homicides took place at the U.S. military detention centre, known as the Bagram Theater Internment Facility, situated near Afghan capital Kabul.

Nate Cohn style 1AC (2/16)

And, As long as Maqaleh v. Gates is upheld America can flaunt international law- bagram is key- its location in an active theatre of war is what allows suspension of habeus corpus

Eviatar 2010(Daphne, Senior Associate in Human Rights First's Law and Security Program, “Court Ruling Highlights need for Due Process at Bagram”, <http://blog.humanrightsfirst.org/2010/05/d.html>, Waldman)

### The D.C. Circuit Court of Appeals on Friday morning issued [a stunning ruling](http://www.scotusblog.com/wp-content/uploads/2010/05/CA-ruling-Maqaleh-5-21-10.pdf): that the United States government may seize suspected terrorists outside the United States, send them to the U.S.-run Bagram detention center in Afghanistan, and thereby deprive them of the right to challenge their detention in federal court. The question came up in the case of Maqaleh v. Gates, which involves two Yemenis and a Tunisian, one of whom was arrested in Thailand, and all of whom were flown from outside Afghanistan to Bagram by U.S. authorities and imprisoned there. They've been there, without charge or trial, for the past seven years. The D.C. court relied heavily on the fact that these three men, all suspected of ties to terrorism, are being held in a battlefield prison in a theater of active war. But as American University law professor [Steven Vladeck points out,](http://prawfsblawg.blogs.com/prawfsblawg/2010/05/outoftheater-capture-or-why-maqalehs-narrow-reasoning-sweeps-so-broadly.html) the only reason they were "in theater" is because the U.S. government had decided to move them there. So this case stands for "the proposition that location of capture is less important than location of detention--and that, so long as the latter is in a zone of active combat operations, there will be no habeas." The case isn't necessarily over, because the detainees could ask for rehearing or appeal to the Supreme Court. But in the meantime, it highlights the absurdity of the United States' claim that the entire world is a battleground and suspected terrorists seized anywhere can be held by the U.S. government as enemy belligerents without the opportunity to challenge that in an impartial federal court. Although the laws of war do allow detention of some belligerents captured on a battlefield in an international conflict, there's nothing in U.S. or international law that authorizes capture of alleged enemies anywhere in the world to be brought to a battlefield where the U.S. is fighting local insurgents, for purposes of their indefinite detention.

US holdout undermines International Human Rights Law

**Ramji 1** Jaya, Visiting Fellow, Refugee Law Clinic, University of the Witwatersrand, Johannesburg, South Africa, LEGISLATING AWAY INTERNATIONAL LAW: THE REFUGEE PROVISIONS OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT, 37 Stan. J Int'l L. 117

As a result of these distinctions, a breach of an international human rights treaty will have extremely different consequences than breach of a contract. While termination of a bilateral treaty only affects a relationship between two parties, breach of a multilateral human rights agreement can undermine the legitimacy  [\*152]  of the international legal regime. [n190](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277391980974&returnToKey=20_T9619794732&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.328590.1491620806#n190) If a powerful nation such as the United States derogates from treaty-based standards, other nations may follow its example. This is compounded by the fact that the United States has not withdrawn from the international human rights treaties that the IIRIRA breaches; indeed, it remains a member of various treaties while failing to uphold its obligations as a state party. This hypocritical practice will diminish the credibility of the United States in the international arena and threaten its ability to discipline other states for breaches of human rights treaties. While the withdrawal of United States from important multilateral human rights treaties would also endanger the international legal regime, it would at least provide an honest reflection of U.S. refugee law to the rest of the world. Further, international pressure might then shame the United States into revising its domestic law to uphold its international legal obligations in the human rights realm.

Nate Cohn style 1AC (3/16)

Ruling on international law spills over to broader incorporation.

Jeffrey C. **Goldman**, JD @ Duke, Executive Editor, Duke Law Journal. “Of Treaties And Torture: How The Supreme Court Can Restrain The Executive,” Duke Law Journal December, **2005** 55 Duke L.J. 609 Waldman

The Bush administration's original (and now superseded) "torture memos" strain contemporary understandings of the United States' obligations under the Convention Against Torture. [n2](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n2)These documents also mock traditional understandings of the relationship between international law and treaties and of the executive's power to interpret and apply them. [n3](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n3) Perhaps most alarming are the administration's attempts to undermine the spirit of both domestic legislation and international law by employing a "strict constructionist" interpretive methodology while embracing an expansive view of executive power. The Bush administration's  [\*610]  approach weakens American law's carefully constructed system of checks and balances by aggrandizing power to the executive branch at the expense of both coordinate branches. Short of impeaching the president and removing him from office - a drastic step that is likely to be both politically unpopular and ineffective in restoring the country's reputation as a leader in human rights issues - what other avenues exist for restraining the executive? This Note argues that the Supreme Court should take a far more activist approach in reviewing executive interpretation of international law and that it may do so while remaining consistent with judicial precedent. In particular, this Note focuses on the administration's conduct of the War on Terror and specifically on its application of, or threats to use, torture. It concludes that the president does not, in fact, have the power to terminate unilaterally the Convention Against Torture because treaties that embody human rights norms (especially peremptory norms like torture) are fundamentally different from other sorts of treaties. [n4](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n4) The interplay of traditional and contemporary understandings of international law - especially customary international law and peremptory norms - combined with well-established interpretations of the treaty power suggest that the balance of power between the executive and judicial branches should vary with the subject matter of a treaty. True, the United States Court of Appeals for the District of Columbia Circuit did state, in Goldwater v. Carter, [n5](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n5) that "there is no judicially ascertainable and manageable method of making any distinction among treaties on the basis of their substance." [n6](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n6) However, the development of international humanitarian and human rights law in the twentieth century, and especially in the twenty-five years since Goldwater was decided, suggests otherwise. The recognition of some rules of international law as peremptory norms from which no derogation is permitted (jus cogens) provides a "judicially ascertainable and manageable method" [n7](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n7)of distinguishing treaties based on subject matter. These treaties provide the Supreme  [\*611]  Court with legitimate, constitutional reasons to overrule congressional and executivetreaty interpretations. Although U.S. courts long ago adopted a rule of construction that accorded treaties and statutes equal weight, [n8](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n8) jurists added a caveat: "unless it is for some reason distinguishable from other laws, the rule which [a treaty] gives may be displaced by the legislative power, at its pleasure." [n9](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n9) Treaties dealing with peremptory norms are categorically different from other treaties. Human rights treaties, and related implementing legislation, grant specific and far-reaching rights directly to individuals. These rights, by virtue of reason, should be held by courts as equal to constitutional freedoms and rights; like those freedoms and rights, neither the executive nor the legislative branch should be able to alter or infringe them in any but the most compelling circumstances (and certainly not unilaterally, as by executive order). The Supreme Court's recognition of this equivalence would give it an axe to wield that it cannot carry into interpretative battles regarding other treaties. [n10](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277657027310&returnToKey=20_T9632785840&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.872873.03272028#n10) This axe can restore the balance of power between the executive, legislative, and judicial branches and ensure that the United States, which has led the world in recognizing and promoting human rights, retains its high moral ground. This Note argues that because human rights are fundamental in nature, and because the exercise of constitutional rights is predicated on the enjoyment of more basic human rights, courts should treat human rights treaties differently than other international agreements the United States has signed or ratified. Part I of this Note reviews the judiciary's understanding of the relationship between  [\*612]  international and domestic law. It then presents a brief overview of jus cogens norms in international law and demonstrates that torture has entered the canon of such norms. Part II begins with a discussion of the function and interpretation of treaties under U.S. law and argues that human rights treaties should be categorically distinguished from those dealing with other subjects. It then argues that equating human rights with constitutional rights is both appropriate and necessary if human rights treaties are to achieve their full potential. Part III suggests a limit for the executive's treaty interpretation power and specifically demonstrates that executive power to terminate treaties unilaterally does not extend to human rights treaties. Part III then argues that recognizing human rights treaties as a distinct category offers the judiciary a way to restrain the executive without running afoul of the political question doctrine.

Nate Cohn style 1AC (4/16)

Even if judges reject specific applications, the process allows for the wider introduction of international law into the American judicial system.

Kenneth **Roth** Executive Director, Human Rights Watch 2K. 2000 The University of Chicago Chicago Journal of International Law Fall, **2000** 1 Chi. J. Int'l L. 347 Waldman

This "know-nothingism" does not stand up to scrutiny. For example, Article 6(1) of the ICCPR prohibits the arbitrary deprivation of life. Any honest assessment of whether the death penalty as applied in the United States violates this standard would benefit from considering the powerful and sophisticated arguments of the South African Constitutional Court finding the death penalty in violation of South Africa's new constitution. [n11](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277584640523&returnToKey=20_T9631345262&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.198188.1128310561#n11) Why should the global marketplace of ideas, so vigorously upheld by Washington in other contexts, be judged irrelevant when it comes to rights protection? Of course, a US litigant could present the South African court's rationale even under current law as persuasive authority. But under existing US law, US judges are unlikely to pay much attention to these precedents because they are given no formal relevance to the interpretation of US rights protections. By contrast, a system in which claims could be stated under the ICCPR would invite consideration of these global precedents. A US judge might still decide not to follow a particular ruling by a foreign court or UN committee, but the process would at least have been enriched by his or her consideration of it. Washington's cynical attitude toward international human rights law has begun to weaken the US government's voice as an advocate for human rights around the  [\*353]  world. Increasingly at UN human rights gatherings, other governments privately criticize Washington's "a la carte" approach to human rights. They see this approach reflected not only in the US government's narrow formula for ratifying human rights treaties but also in its refusal to join the recent treaty banning anti-personnel landmines and its opposition to the treaty establishing the International Criminal Court unless a mechanism can be found to exempt US citizens. For example, at the March-April 2000 session of the UN Commission on Human Rights, many governments privately cited Washington's inconsistent interest in international human rights standards to explain their lukewarm response to a US-sponsored resolution criticizing China's deteriorating human rights record. The US government should be concerned with its diminishing stature as a standard-bearer for human rights. US influence is built not solely on its military and economic power. At a time when US administrations seem preoccupied with avoiding any American casualties, the projection of US military power is not easy. US economic power, for its part, can engender as much resentment as influence. Much of why people worldwide admire the United States is because of the moral example it sets. That allure risks being tarnished if the US government is understood to believe that international human rights standards are only for other people, not for US citizens.

International Law is inevitable but US engagement is critical to its effectiveness

**Institute for Energy and Environmental Research,** (and the Lawyers Committee on Nuclear Policy, **2002** (Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties, May, <http://www.ieer.org/reports/treaties/execsumm.pdf>)

The evolution of international law since World War II is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system offered by a treaty. However, influential U.S. policymakers are resistant to the idea of a treaty-based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical 27 implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments by the United States that can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. If the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance.

Nate Cohn style 1AC (5/16)

US International Law incorporation spurs international state compliance – leads to world peace

Robinson 3 Executive Director of the Ethical Globalization Initiative. She served as United Nations High Commissioner for Human Rights from 1997 to 2002, The Fifth Annual Grotius Lecture\* Shaping Globalization: The Role of Human Rights, 19 Am. U. Int'l L. Rev. 1, Lexis Waldman

I conclude by returning to the crucial role of this country. The United States played a key role in developing the international human rights system and has urged countries around the world to take on these legal obligations at home. But what I found during my five years at the United Nations was a reluctance by the United States to embrace the full corpus of international human rights law and to look to these international standards in interpreting its own Constitution. This reluctance had a knock on effect which was damaging. It made it more difficult to hold other governments accountable to their legal obligations and thus move human rights protection forward internationally. Where the United States engages with the international human rights system, it sets a powerful example and sends a moral message. The Palermo Protocol, which creates human rights protections for the victims of trafficking, is one example. [n66](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277316457275&returnToKey=20_T9612820518&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.737982.2619181799#n66) Another can be seen in the U.S. report under the Convention against Torture which took place while I was High Commissioner. That high quality report candidly reviewed U.S. policies against the standard set in the Convention, and also identified gaps in those safeguards. [n67](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277316457275&returnToKey=20_T9612820518&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.737982.2619181799#n67) The delegation presenting its report to the oversight Committee was both senior and expert - led by Harold Koh, then Assistant Secretary of State for Democracy, Human Rights and Labor. [n68](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277316457275&returnToKey=20_T9612820518&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.737982.2619181799#n68) But subsequent events in the context of the war against terrorism have placed a question mark  [\*26]  against that message, which some less democratic countries have been quick to exploit. In the end, we face a fundamental choice. We can choose to rescue, rebuild, and reform the international system that has been built up over the past half century and place more emphasis on the values, expressed through international law, which should underpin it. Or instead, we can choose to fall in on a conception of national security and national interest that sees the world as a place requiring more walls of separation between nations and peoples rather than more bridges of trust and shared responsibilities. But one point cannot be denied. There are not two worlds - rich and poor. There is only one. It is for us to decide if we are committed to working together to shape it into one which is based on human rights and social justice as the best hope of achieving peace and security for all people.

Nate Cohn style 1AC (6/16)

Extinction!

**Demonchonok** 9 Prof. Edward Demenchonok, President, Department of English and Foreign Languages, Fort Valley State University, 1005 State University Drive, Fort Valley, Georgia AUTHOR:EDWARD DEMENCHONOKTITLE:Philosophy After Hiroshima: From Power Politics to the Ethics of Nonviolence and Co-ResponsibilitySOURCE:The American Journal of Economics and Sociology 68 no1 9-49 Ja **2009**

TODAY WE WITNESS a contrast between the two tendencies concerning international relations. One is a power politics and hegemonic unipolar model, pursuing an elusive goal: "to create a dominant American empire throughout the world." (38) An alternative to this is the philosophers' call for nonviolence, co-responsibility, and "the cosmopolitan model of democracy" to be implemented by strengthening the network of transnational grass-roots movements and international institutions, including the United Nations. The idea of a hegemonic-centered world order is a recent version of what Kant two centuries ago called a "world republic," warning that it would become an amalgamation of the nations under a hegemonic state like a despotic "universal monarchy." Kant noticed that, since this is not the will of the nations, this idea cannot be realized, and thus as an alternative he proposed a league of nations or a pacific federation of free states as a basis for peace in the world. (39) Although world hegemony is an unrealistic and failed project, attempts of its implementation are undermining the collective efforts in establishing a peaceful and just world order since World War II. The project of a hegemonic-centered world order means abandoning the international system based on the rule of law and collective actions (including collective security), and replacing it by unilateral actions of individual states (or coalitions of states). Removing the existing legal-procedural constraints on the use of force will result in the stronger states becoming unchecked, while the weaker ones remain unprotected. This would also mean falling back toward the violent, unlawful "state of nature." The prospects of a unipolar hegemonic world look grim: a world of "social Darwinism," where the divided nations would be dominated by a hegemonic power, bur each nation would be left on its own in striving for survival in a hostile environment. Facing the economic challenges and the negative consequences of climate change and other environmental problems, the poor nations would be the most vulnerable. The major powers would more aggressively compete for the dominant position and control over the economy and the limited natural resources of the planet. Since the decisive factor in this competition is military force, this would boost militarization and the arms race, thus increasing the possibility of wars and the escalation of global violence. A traditional reaction to social and global problems is governmental reliance on force and power politics, accompanied by "emergency" measures and a myth of protection. This simplistic approach obfuscates the root causes of the problems and thus is unable to solve them. Instead, the resulting arms race, the infringement of civil liberties, and the tendency toward neototalitarian control have become problems in themselves, keeping society hostage to a spiral of violence. (40) For those politicians who rely mainly on military "hard power" rather than on the "soft power" of diplomacy, the reasoning seems to be that the use of force is a quick and efficient means for the solution to the problems of security, stability, human rights, and so on. However, many human and social problems by their very nature can not be resolved by force, and an unrestricted use of force can make things even worse, creating new problems. Even well-intentioned leaders or "benevolent hegemons," being limited by their political cultures and interests, cannot know whether the consequences of their policies and actions are equally good for all. Therefore, policies and decisions that potentially could affect society and the international community must be based on collective wisdom in a broad context, through deliberative democracy, international multilateral will-formation, and inclusive legal procedures, thus equally considering the cognitive points of view and interests of all those potentially affected. The complex, diverse, and interdependent high-tech world of the twenty-first century requires genuinely robust democratic relations within society and among nations as equals, an adequate political culture, and an enlightened "reasoning public." Otherwise, a society that has powerful techno-economic means bur is ethically blind and short-sighted could ultimately suffer the same fate as the dinosaurs, with their huge bodies bur disproportionately small brains.

Nate Cohn style 1AC (7/16)

Contention 2: Winning the War

We’re Losing the War- Afghan President Concedes

**Guardian 6/9**/10(Jon Boone, Writer for the Guardian, “Afghan president 'has lost faith in US ability to defeat Taliban'” [**http://www.guardian.co.uk/world/2010/jun/09/afghanistan-taliban-us-hamid-karzai**](http://www.guardian.co.uk/world/2010/jun/09/afghanistan-taliban-us-hamid-karzai) Waldman)

President [Hamid Karzai](http://www.guardian.co.uk/world/hamid-karzai) has lost faith in the US strategy in [Afghanistan](http://www.guardian.co.uk/world/afghanistan) and is increasingly looking to [Pakistan](http://www.guardian.co.uk/world/pakistan) to end the insurgency, according to those close to Afghanistan's former head of intelligence services. Amrullah Saleh, who resigned last weekend, believes the president lost confidence some time ago in the ability of Nato forces to defeat the [Taliban](http://www.guardian.co.uk/world/taliban). As head of the National Directorate of Security, Saleh was highly regarded in western circles. He has said little about why he quit, other than that the Taliban attack on last week's peace jirga or assembly in Kabul was for him the "tipping point"; the interior minister, Hanif Atmar, also quit, and their resignations were accepted by Karzai. Privately Saleh has told aides he believes Karzai's approach is dangerously out of step with the strategy of his western backers. "There came a time when [Karzai] lost his confidence in the capability of the coalition or even his own government [to protect] this country," a key aide told the Guardian.

The Reason is we’re losing the hearts and minds of Afghani’s now- a policy change is necessary

Mercille 2010 (Julien, Lecturer at the University College in Dublin, “Losing Afghan Hearts and Minds” <http://english.irib.ir/component/k2/item/60774-losing-afghan-hearts-and-minds> Waldman)

According to a report by the International Council on Security and Development (ICOS), the North Atlantic Treaty Organization (NATO) is losing hearts and minds in Afghanistan. It gives a clear signal of the dangers of the military operation against Qandahar planned for this summer. Contrary to its stated objectives of protecting the population from insurgents, NATO is actually raising the likelihood that poor Afghans will join the Taliban - not a great report card for General Stanley McChrystal, the top commander in Afghanistan, whose strategies seem to be backfiring. The report, entitled Operation Moshtarak: Lessons Learned, is based on interviews conducted last month with over 400 Afghan men from Marjah, Lashkar Gah and Qandahar to investigate their views on the military operation to drive out the Taliban, launched in February in Helmand province, and its aftermath. It corroborates previous assessments, such as one from the Pentagon released last week which concluded that popular support for the insurgency in the Pashtun south had increased over the past few months. Not one of the 92 districts that are deemed key to NATO operations supported the US and NATO forces whereas the number of those sympathetic to or supporting the insurgency increased to 48 in March, from 33 in December 2009. There is no doubt that the joint operation has upset Afghans. Some 61% of those interviewed said they now feel more negative about the US and NATO forces than before the offensive. This plays into the insurgents hands, as 95% of respondents said they believed more young Afghans are now joining the Taliban. In addition, 67% said they do not support the NATO presence in their province and 71% said they just wanted foreign troops to leave Afghanistan entirely. Locals don't have much confidence in NATO "clearing and holding" the area, as 59% thought the Taliban would return to Marjah once the dust settled, and in any case, 67% didn't believe NATO and the Afghan security forces could defeat the Taliban.

Nate Cohn style 1AC (8/16)

Closing the base would help us win the war- solves hearts and minds of afghans

Ally 2009 (Sahr Muhammed , Senior Associate in the Law and Security Program @ Human Rights First, “An examination of Detention and Trials of Bagram Detainees in April 2009” <http://www.humanrightsfirst.info/pdf/HRF-Undue-Process-Afghanistan-web.pdf> Waldman)

Consistent with international law and with the U.S. strategy to progressively devolve responsibility for detentions to the Afghan government, these grounds and procedures should be addressed through Afghan legislation or if it suffices under the Afghan Constitution, a security agreement between the Afghan and U.S. governments. The grounds and procedures established must be consistent with international humanitarian law and the applicable standards of international human rights law, as outlined below. The implementation of such an agreement regularizing U.S. detention in this way would advance the credibility of U.S. military actions in the eyes of Afghans, thus supporting U.S. counterinsurgency goals in Afghanistan. The position of the United States on the legal character of the conflict in Afghanistan after the defeat of the Taliban government remains unclear. As discussed below, however, our recommendations for improvements in the legal framework and, in particular, the specific grounds for detention and procedures to challenge the legality of detention are also based on sound policy that reflects American values and interests, and will advance U.S. strategy in Afghanistan, regardless of the administration’s view on the legal character of the current conflict. In our view, the United States is obligated to take these steps.138

Detentions give the Taliban moral high ground- Undermining US Presence

International Crises Group 2008 (it’s an international, [non-profit](http://en.wikipedia.org/wiki/Non-profit), [non-governmental organization](http://en.wikipedia.org/wiki/Non-governmental_organization) whose mission is to prevent and resolve deadly conflicts around the world through field-based analyses and high-level advocacy. It is generally recognized as the world’s leading independent, non-partisan, source of analysis and advice to governments, and intergovernmental bodies like the United Nations, European Union and World Bank, on the prevention and resolution of deadly conflict. “Taliban Propaganda: Winning the War on Words?” <http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/158_taliban_propaganda___winning_the_war_of_words.ashx> Waldman)

Extrajudicial detentions at Guantanamo Bay and Bagram airbase,124 along with ham-fisted or ill-informed raids, have undermined the perceived legitimacy of the foreign presence and have become enduring symbols of oppression, particularly among Pashtuns. At least two books by Afghans on experiences in Guantanamo have been widely circulated,125 and the image of being imprisoned on a far-distant island has entered the folk culture. A tarana framed as a letter from a prisoner to his mother is popular on audio cassettes and MP3: I am imprisoned in Cuba jail/I sleep neither during the day nor during the night, my mother/It’s a piece of land amidst the ocean/This is Cuba Island/There are detainees in it/It is surrounded by bars/ There are cages/Which are very strong/They are as small/as a human being/These are for horror/ These are for tragedy/These are for punishing the poor nation.126 Yasir delivered an audio homily about Guantanamo, which has also been distributed in a printed pamphlet stating: “This prison is being used as a psychological torture tool and as psychological warfare, to create terror amongst Muslims”.127 Taliban magazines regu-larly carry “letters” allegedly from inmates of Guantanamo or Bagram.128 DVDs showing examples of raids and cultural misunderstandings are used to depict the international military presence as an occupation – some even pirated from Western news productions. An Australian documentary showed the then Uruzgan governor Jan Mohammed using filthy language and sexual slurs as he detained a young villager while supported by a group of marines.129 The version circulated by the Taliban was subtitled: “The Americans want to strengthen human rights in Afghanistan? You should judge”. Detentions and raids by foreign troops are eroding local support for the intervention. Agreements which outline the responsibilities and obligations of international forces and include mechanisms to address allegations of abuse are vital. Detention issues are complex, as the Canadians have found. Like many ISAF nations reluctant to get into detentions themselves, they handed prisoners over to Afghan authorities, only to then be accused of turning a blind eye to torture.130 There must be a greater focus on the wider rule of law in Afghanistan, including public trials, if Taliban propaganda is to be negated.

Nate Cohn style 1AC (9/16)

Winning the War is key to Middle East Stability

Nagl et al. 2009 (John, President for Center for a New American Security, Andrew Bacevich, Professor of history and International Relations @ Boston University, and Erin M. Simpson, Former professor at the Marine Command and Staff College, “Is the War in Afghanistan Worth Fighting?” <http://www.washingtonpost.com/wp-dyn/content/article/2009/08/31/AR2009083103131.html> Waldman)

America has [vital national security interests in Afghanistan](http://www.cnas.org/node/675) that make fighting there necessary. The key objectives of the campaign are preventing Afghanistan from again serving as a sanctuary for terrorists with global reach and ensuring that it does not become the catalyst for a broader regional security meltdown. Afghanistan also serves as a base from which the United States attacks al-Qaeda forces inside Pakistan and thus assists in the broader campaign against that terrorist organization -- one that we clearly must win. U.S. policymakers must, of course, weigh all actions against America's global interests and the possible opportunity costs. In Afghanistan and Pakistan, low-cost strategies do not have an encouraging record of success. U.S. efforts to secure Afghanistan on the cheap after 2001 led it to support local strongmen whose actions alienated the population and thereby enabled the Taliban to reestablish itself as an insurgent force. Drone attacks, although efficient eliminators of Taliban and al-Qaeda leaders, have not prevented extremist forces from spreading and threatening to undermine both Afghanistan and Pakistan. The so-called "light footprint" option has failed to secure U.S. objectives; as the Obama administration and the U.S. military leadership have recognized, it is well past time for a more comprehensive approach. ANDREW J. BACEVICH Professor of history and international relations at Boston University Almost eight years into the Afghanistan war, the golfer in the Oval Office is essentially taking a mulligan: He's insisting that we allow him a do-over, starting the war all over again. Yet granting President Obama's request makes sense only if he can first make the following case: That Afghanistan, an impoverished, landlocked country producing nothing that Americans want or need (apart from illegal drugs), qualifies as a vital U.S. national security interest. That fixing the place -- an effort at armed nation-building likely to require at least as many years as we have already wasted -- provides the most expeditious way to satisfy those interests. That adequate resources -- troops, dollars, will, and expertise -- exist to see the project through. That other, more important uses for those resources do not exist. Thus far, the president has not been able make that case persuasively. This is hardly surprising, because it is impossible to do so. ERIN M. SIMPSON Former professor at the Marine Command and Staff College; contributor to the blog [Abu Muqawama](http://www.cnas.org/blogs/abumuqawama) The war is worth fighting, and it's worth fighting well. Years of strategic neglect and severely limited resources have seriously undermined U.S. and NATO efforts in Afghanistan. In the last year we finally acknowledged that Pakistan is critical to the success of our efforts in Afghanistan. In the next year we must recognize the degree to which Afghanistan is key to Pakistan's future stability. A fragmented, war-torn, or Taliban-ruled Afghanistan would offer both al Qaeda and Pakistani Taliban a plush sanctuary with greater freedom of movement than is currently enjoyed in Pakistan. It is the future stability of this nuclear-armed neighbor that demands our presence and our perseverance in Afghanistan. Some might argue for a quarantine strategy for Afghanistan, akin to previous counterterrorism missions. But this is not a war that can be meaningfully fought from stand-off range. The intelligence demands are daunting and cannot be met from either the Indian Ocean or satellites in orbit. And even if they could, given the distances involved, such information is perishable. Only people on the ground -- civilians and soldiers, Americans and Afghans -- can secure the population and deny our adversaries the sanctuaries they crave. Is the War in Afghanistan worth fighting? Yes, but we've really only just begun.

Nate Cohn style 1AC (10/16)

Regional instability causes global crises and nuclear war

Steinbach, 2

[John Steinbach, nuclear specialist, Secretary of the Hiroshima-Nagasaki Peace Committee of the National Capitol Area, 2002, Centre for Research on Globalisation, “Israeli Weapons of Mass Destruction: a Threat to Peace,” http://www.globalresearch.ca/articles/STE203A.html]

Meanwhile, the existence of an arsenal of mass destruction in such an unstable region in turn has serious implications for future arms control and disarmament negotiations, and even the threat of nuclear war. Seymour Hersh warns, "Should war break out in the Middle East again,... or should any Arab nation fire missiles against Israel, as the Iraqis did, a nuclear escalation, once unthinkable except as a last resort, would now be a strong probability."(41) and Ezar Weissman, Israel's current President said "The nuclear issue is gaining momentum(and the) next war will not be conventional."(42) Russia and before it the Soviet Union has long been a major(if not the major) target of Israeli nukes. It is widely reported that the principal purpose of Jonathan Pollard's spying for Israel was to furnish satellite images of Soviet targets and other super sensitive data relating to U.S. nuclear targeting strategy. (43) (Since launching its own satellite in 1988, Israel no longer needs U.S. spy secrets.) Israeli nukes aimed at the Russian heartland seriously complicate disarmament and arms control negotiations and, at the very least, the unilateral possession of nuclear weapons by Israel is enormously destabilizing, and dramatically lowers the threshold for their actual use, if not for all out nuclear war. In the words of Mark Gaffney, "... if the familar pattern(Israel refining its weapons of mass destruction with U.S. complicity) is not reversed soon- for whatever reason- the deepening Middle East conflict could trigger a world conflagration." (44)

Nate Cohn style 1AC (11/16)

Afghanistan Stability key to Central Asian Stability

**Lal** **2006**, Rollie, Dr. Rollie Lal is a Political Scientist at RAND.  “Central Asia and It’s Asian Neighbors: Security and Commerce at the Crossroads” <http://www.rand.org/pubs/monographs/2006/RAND_MG440.pdf> Waldman)

The Asian states neighboring Central Asia have historic links and strong interests in the region. China, Iran, Afghanistan, India, and Pakistan are critical players in the security and economic issues that will determine the future of Central Asia and affect U.S. interests in the region. All of these states are of importance to the United States, whether due to the war on terrorism, economic ties, arms control, nonproliferation, or other reasons. China, Iran, and India have all aggressively sought to build trade ties to and through Central Asia, and China and India have also invigorated security cooperation. But regional states are concerned about the situation in Afghanistan, which they fear might lead to a spillover of conflict onto their soil, and they also fear the possibility of Pakistani activity and influence, which has led them to keep that state at arm’s length. China has indicated that security is a primary interest in the region through its initiative in establishing the Shanghai Cooperation Organization (SCO) with Kazakhstan, Uzbekistan, Kyrgyzstan, Tajikistan, and Russia (pp. 6–7). Concerns regarding China’s Muslim Uighur separatists, as well as concerns of U.S. encirclement, underpin China’s efforts to promote regional security cooperation (pp. 4–6, 9–10). China has also moved aggressively to expand its economic interests in the region through commodity trade and agreements to import oil via pipeline from Kazakhstan (pp. 7–8). Iran has a similar perspective toward its Central Asian neighbors. Stability in Afghanistan lies at the heart of Iran’s concerns, as the Taliban has historically been anathema to Iran (p. 12). Iran main tains that an international, United Nations–led military presence should remain in Afghanistan to prevent a deterioration of the security situation (pp. 11–12). However, U.S. presence there and in Central Asia creates concern in Iran that U.S. intentions are to surround and isolate Iran rather than enhance regional security (p. 16). To increase its leverage in the region, Iran is developing economic links with each country in Central Asia. Transport links are another important initiative, with routes being developed via Afghanistan, connecting Iranian ports and landlocked Uzbekistan (pp. 13–16). India shares Iran’s concerns regarding the threat of militants based in Afghanistan. However, India welcomes U.S. presence in the region as a stabilizing influence (p. 34). Economic ties are growing, and India is developing transport and energy links to the region via Iran and Afghanistan (pp. 33–34). The Central Asian states have close relations with India dating to the years of the Soviet Union and the Afghan war, a history that negatively affects their relations with Pakistan. Pakistan’s relations with Central Asia suffer from lingering memories in the region of Pakistan’s role in supporting the Taliban and Islamic militancy in general. Uzbekistan, Tajikistan, and Kyrgyzstan all remain suspicious of Pakistan’s regional intentions, and trade with Pakistan has been weak as a result (p. 25). The establishment of the Karzai government in Kabul has been a blow to Pakistan’s regional security strategy. Whereas the Taliban regime would have been friendly to Pakistan’s interests, the current government is more open to ties with India (p. 23). Although Pakistan is moving to overcome its regional reputation, robust cooperation will take time and effort (p. 26). Afghanistan remains critical to the future of Central Asia and its neighbors, as instability in Afghanistan has the potential to destabilize the region (pp. 19–20). A potent combination of drugs, weapons, and militants traverse Afghanistan and cross into Central Asia and beyond. Uzbekistan, Tajikistan, and Kyrgyzstan fear that Islamic militants trained in Afghanistan may slip back across their borders (p. 20). Iran remains apprehensive that hostile, anti-Shia elements may take control of Afghanistan, putting Iranian security at risk (p. 12). And Pakistan and India both compete to ensure that the Afghan regime in power is friendly to their interests (pp. 26, 29). Although the countries across Asia do not agree on how to secure Afghanistan against threats, unanimous agreement exists on the fact that a stable Afghanistan is critical to their own security interests. The U.S. presence has led both the Central Asian states and their neighbors to ponder how long the United States plans to keep troops in the region. U.S. intentions in the region have been interpreted in various ways. Both China and Iran are apprehensive that U.S. military presence and security interests in the area have the dual purpose of containment (pp. 3, 9–10, 11–12, 16). Conversely, Afghanistan would like to see a continued strong role for the United States in combating militancy and fostering stability (p. 22), and Pakistan and India see the potential for security cooperation with the United States in the region (pp. 27, 34). Despite the divergent perspectives of their Asian neighbors, the Central Asian states continue to see a role for the United States in promoting stability in the region.

Nate Cohn style 1AC (12/16)

Central Asian Instability Causes Nuclear War

**Starr**, Chair of Central Asia-Caucasus Institute at John Hopkins University, **2001** [S. Frederick, “The War Against Terrorism and U.S. Bilateral Relations with the Nations of Central Asia,” Testimony before Senate Subcommittee on Central Asia and the Southern Caucasus, Dec 13, <http://www.cacianalyst.org/Publications/Starr_Testimony.htm> Waldman]

However, this does not mean that US actions are without risk to the Central Asian states. Quite the contrary. For a decade they have faced not only the dangers arising from Afghanistan but also the constant threat posed by certain groups in Russia, notably the military and security forces, who are not yet reconciled to the loss of empire. This imperial hangover is not unique to Russia. France exhibited the same tendencies in Algeria, the Spanish in Cuba and Chile, and the British when they burned the White House in 1812. This imperial hangover will eventually pass, but for the time being it remains a threat. It means that the Central Asians, after cooperating with the US, will inevitably face redoubled pressure from Russia if we leave abruptly and without attending to the long-term security needs of the region. That we have looked kindly into Mr. Putins soul does not change this reality. The Central Asians face a similar danger with respect to our efforts in Afghanistan. Some Americans hold that we should destroy Bin Laden, Al Queda, and the Taliban and then leave the post-war stabilization and reconstruction to others. Such a course runs the danger of condemning all Central Asia to further waves of instability from the South. But in the next round it will not only be Russia that is tempted to throw its weight around in the region but possibly China, or even Iran or India. All have as much right to claim Central Asia as their backyard as Russia has had until now. Central Asia may be a distant region but when these nuclear powers begin bumping heads there it will create terrifying threats to world peace that the U.S. cannot ignore.

Nate Cohn style 1AC (13/16)

Contention 3: Human Rights

Blatant Violations of Human Rights Violations exist at Bagram- Torture

Press 2002 (Eyal, journalist whose work has appeared in the New York Times Magazine, The Nation, Atlantic Monthly, and other publications, “Tortured Logic: Thumbscrewing International Law” <http://www.amnestyusa.org/magazine/tortured.html>” Waldman)

When U.S. Defense Secretary Donald Rumsfeld charged in March that Iraq had violated the Geneva Conventions by parading captured U.S. soldiers on television, the U.S. media were awash with stories about the fine-points of international law. Article 13 of the Geneva Conventions does in fact state that prisoners “must at all times be protected…against insults and public curiosity.” But there is something else that the Geneva Conventions prohibit: torture. And on this score, Rumsfeld and others in the Bush administration have been notably less attentive to the letter of the law. Recent revelations in the media suggest that torture is becoming acceptable in some quarters of the U.S. government, with terrorism replacing communism as the official rationale. And as during the cold war when U.S. trainers taught torture techniques, Washington’s tolerance of such practices could have a ripple effect around the world. A Washington Post story on Dec. 26 detailed allegations of torture and inhumane treatment of some of the thousands of suspects the U.S. has apprehended since the Sept.11 terrorist attacks. U.S. Army Special Forces often “soften up”—that is, beat up—Al Qaeda captives held at the CIA interrogation centers overseas before interrogating them, according to the front-page report. Interrogators have also thrown suspects against walls, hooded them, deprived them of sleep, bombarded them with light, and bound them with duct tape in painful positions. Referred to by officials as “enemy combatants,” the prisoners have no access to lawyers, reporters, and most outside agencies, including Amnesty International. Such methods, at the least, constitute cruel and inhumane treatment and may rise to the level of inflicting “severe pain or suffering, whether physical or mental,” the official benchmark of torture set forth in the U.N. Convention Against Torture. The U.S. government insists it is conforming to international law, but one unnamed official told the Post, “If you don’t violate someone’s human rights some of the time, you probably aren’t doing your job.” At least two prisoners have been killed in U.S. custody. In March, the story broke that death certificates for two Al Qaeda suspects at the Bagram base in Afghanistan showed both to have been killed by “blunt force injuries.” A military doctor listed the deaths as homicides.

Recent Decline in Human Rights Reversible- Tortures a key issue

Roth 9 Kenneth Roth, exec. Director of human rights watch, Human Rights Watch World Report 2009, Introduction by Kenneth Roth, <http://www.hrw.org/en/world-report-2009/taking-back-initiative-human-rights-spoilers> Waldman

That the initiative on human rights has been captured by governments that do not wish international protection well should generate not despair but resolve. The new Obama administration in Washington offers the hope of a US government that can assume a place of leadership in promoting human rights. If the European Union can generate the political will and surmount its self-imposed procedural paralysis, it will be in a position to help build a genuine global coalition for human rights that can seize the initiative from the spoilers. Governments that purport to promote human rights should abide by certain basic rules to be effective. First, they should ensure their own scrupulous respect for human rights-because international law obliges them to do so, because it will set a positive example, and because compliance will help silence charges of hypocrisy. They should also abandon efforts to undermine human rights standards, such as the prohibition of torture in the context of fighting terrorism, or refugee protection in the rush to develop a common asylum policy. When these governments face criticism for violating human rights, they should accept it as legitimate discourse rather than an affront to be reflexively rejected.

Nate Cohn style 1AC (14/16)

Obamas measures are just cosmetic- no real change will come from new initiatives at Bagram

Spiegel 2009 (“Detainees Abuse continues at Bagram” <http://www.globalpolicy.org/empire/us-un-and-international-law-8-24/torture-and-prison-abuse/48196.html> Waldman)

Obama has announced new guidelines for the treatment of the Bagram detainees, which would require that a US military official provide assistance to each detainee -- not as an attorney but as a personal adviser of sorts. This representative could then review evidence and witness testimony for the first time, and could request that a review board examine the case. Worst Abuse However attorney Tina Foster feels that the new initiative is just a cosmetic measure. "There is absolutely no difference between the Bush administration and the Obama administration's position with respect to Bagram detainees' rights," she says during an interview with SPIEGEL in her office in the New York borough of Queens. Foster, a petite 34-year-old with dark brown eyes and black hair, took on the cases of Guantanamo detainees as an attorney with the New York-based Center for Constitutional Rights. That was before she discovered that the worst prisoner abuse happened long before the detainees arrived in Guantanamo -- at Bagram. Since 2005, Foster has worked exclusively with Bagram cases. She has appeared in court to file habeas corpus petitions for three Bagram inmates. Normally, every prisoner is entitled to habeas corpus rights, which would give him the opportunity to petition a US court to investigate the reasons for his arrest.

Now is key

Human Rights Watch 9 1/14,World Report: Obama Should Emphasize Human Rights Stop Abusive States From Playing System to Avert Criticism, JANUARY 14, 2009,<http://www.hrw.org/en/news/2009/01/14/2009-world-report-obama-should-emphasize-human-rights>

"For the first time in nearly a decade, the US has a chance to regain its global credibility by turning the page on the abusive policies of the Bush administration," said Kenneth Roth, executive director of Human Rights Watch. "And not a moment too late. Today, the most energetic diplomacy on human rights comes from such places as Algiers, Cairo, and Islamabad, with backing from Beijing and Moscow, but these ‘spoilers' are pushing in the wrong direction."

US Human Rights key to International

**Powel,** Associate Prof of Law @ Fordham, **8** (Catherine, American Constitutional Society, October) <http://www.acslaw.org/files/C%20Powell%20Blueprint.pdf>

As a new Administration takes office in January 2009, it will have an opportunity to reaffirm and strengthen the longstanding commitment of the United States to human rights at home and abroad. This commitment is one that has been expressed throughout U.S. history, by leaders from both parties. In reality, however, when the idea of human rights is discussed in the United States today, more often than not the focus is on the promotion of human rights abroad and not at home. Indeed, human rights has come to be seen as a purely international concern, even though it is fundamentally the responsibility of each nation to guarantee basic rights for its own people, as a matter of domestic policy. Reaffirming and implementing the U.S. commitment to human rights at home is critical for two reasons. First, human rights principles are at the core of America’s founding values, and Americans (as well as others within our borders or in U.S. custody), no less than others around the world, are entitled to the full benefit of these basic guarantees. That can hardly be open to debate. The second reason is perhaps less obvious, but equally compelling. When the United States fails to practice at home what it preaches to others, it loses credibility and undermines its ability to play an effective leadership role in the world. Leading through the power of our example rather than through the example of our power3 is particularly critical now, at a juncture when the United States needs to cultivate international cooperation to address pressing issues – such as the current economic downturn – that have global dimensions. Perhaps not surprisingly, then, an overwhelming majority of Americans strongly embrace the notion of human rights: that is, the idea that every person has basic rights regardless of whether or not the government recognizes those rights.4Continues… Even so, there remains a gap between the human rights ideals that the United States professes and its actual domestic practice, resulting in both a gap in credibility and a weakening of U.S. moral authority to lead by example. Human rights include the right to be free from torture or cruel, inhuman or degrading treatment, and yet the United States has committed such acts in the name of counterterrorism efforts. Human rights include the rights to emergency shelter, food, and water, as well as security of person, and yet the United States failed to adequately guarantee these rights in the aftermath of Hurricane Katrina. Human rights include the right to equality of opportunity, and yet inequalities persist in access to housing, education, jobs, and health care. Human rights include the right to equality in the application of law enforcement measures, and yet there are gross racial disparities in the application of the death penalty, and racial and ethnic profiling has been used unfairly to target African Americans, Latinos, and those who appear Arab, Muslim, South Asian, or immigrant (whether through traffic stops, airport screening, or immigration raids). Human rights include the right to equal pay and gender equality, and yet a pay gap persists between female and male workers. Certainly, the journey to fully realizing human rights is a work-in-progress, but to make progress, we must work – through smart, principled policies that advance the ability of the United States to live up to its own highest ideals. Thus, January 2009 should mark the beginning of a transition from a society that has condoned torture, cruel interrogation, and inhumane treatment of detained terrorism suspects to a society that deems such conduct unacceptable – not only by other nations, but by our own. We should make the transition from a society that has tolerated little or **no access to health care for certain individuals** to a society that recognizes access to health care for all as a basic right. We should make the transition from a society of structural inequality to one in which not only the very highest glass ceilings are broken, but also in which sticky floors and broken ladders to opportunity are repaired. Marking the transition in this way is both principled and in America’s self-interest.

Nate Cohn style 1AC (15/16)

Human Rights outweigh Extinction

JOHN **SHATTUCK**, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS, 4/19/**94** (*Federal News Service*, l/n)

I would like to start my testimony, Mr. Chairman, which I will summarize -- obviously, you have an extended statement, and I do apologize for the fact that it arrived perhaps later than it should have -- I'd like to start by offering some brief observations about what it means to advocate human rights and democracy in the post-Cold- War world, which is where we are today, of course. We are confronted by extraordinary changes all around us that are at once profoundly inspiring and deeply disturbing. Alongside a worldwide movement for human rights and democratization, which I think has transformed in many ways the political shape of the globe, we see stirrings of deep cultural and ethnic tensions. The principle of self-determination is being pursued and yet is itself a source of very deep human rights questions. These are not academic questions. Around the world we are witnessing ugly and violent racial, ethnic and religious conflict in Bosnia, Central Asia, Africa, most vividly, perhaps, right now in Rwanda, in the Sudan, but elsewhere, too, away from the cameras. The international community clearly has not developed an adequate response to these problems. Why, then, if they are so daunting, has this administration made protecting human rights and promoting democracy a major part of our foreign policy agenda? I think the answer lies not only in our American values but in also the strategic benefits to the United States. We know from historical experience that democracies are more likely than other forms of government to respect human rights, to settle conflict peacefully, to observe international law and honor agreements, to go to war with great reluctance, and rarely against other democracies, to respect the rights of ethnic, racial and religious minorities living within their borders, and to provide the social and political basis for free market economics. By contrast, Mr. Chairman, the costs to the world of repression and authoritarianism are painfully clear. In the 20th century, the number of people killed by their own governments under authoritarian regimes is four times the number killed in all this century's wars combined. Repression pushes refugees across borders and triggers wars; unaccountable governments are heedless of environmental destruction, and the agenda for repression goes on in a very negative way. These, then, are the reasons why promoting democracy and human rights are at the forefront of our foreign policy agenda. What are our strategic objectives? In a word, Mr. Chairman, we aim, perhaps not yet successfully, to incorporate human rights and democracy into the mainstream of our foreign policy-making.

HR Violation leads to Extinction

Rhonda **Copelon**, law at City University of New York, **1999** (3 N.Y. City L. Rev. 59)

The indivisible human rights framework survived the Cold War despite U.S. machinations to truncate it in the international arena. The framework is there to shatter the myth of the superiority  [\*72]  of the U.S. version of rights, to rebuild popular expectations, and to help develop a culture and jurisprudence of indivisible human rights. Indeed, in the face of systemic inequality and crushing poverty, violence by official and private actors, globalization of the market economy, and military and environmental depredation, the human rights framework is gaining new force and new dimensions. It is being broadened today by the movements of people in different parts of the world, particularly in the Southern Hemisphere and significantly of women, who understand the protection of human rights as a matter of individual and collective human survival and betterment. Also emerging is a notion of third-generation rights, encompassing collective rights that cannot be solved on a state-by-state basis and that call for new mechanisms of accountability, particularly affecting Northern countries. The emerging rights include human-centered sustainable development, environmental protection, peace, and security. [38](https://www.lexis.com/research/retrieve?_m=4974f737c0d1acd7e10aed9814b90e85&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVtz-zSkAb&_md5=a71413b9b773f308dacfd1bfaa5c29be#n38#n38) Given the poverty and inequality in the United States as well as our role in the world, it is imperative that we bring the human rights framework to bear on both domestic and foreign policy.

Nate Cohn style 1AC (16/16)

Human Rights Promotion key to Solve North Korea

**Burke-White**, Lecturer Princeton ‘**4** [William. Lecturer at Princeton University. “Human Rights and National Security: The Strategic Correlation” Spring. 17 Harv. Hum. Rts. J. 249 Waldman]

In dealing with states of concern, improving a given state's human rights policy is almost never a primary goal of U.S. policy. A human rights informed foreign policy would include far more active advocacy for improvement in some states' human rights records. Such policies should be advocated not just for the traditional human rights reasons of life and human dignity, [n115](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277673306408&returnToKey=20_T9633293172&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.499490.4523309976" \l "n115) but also because improved human rights records may enhance national and global security by preventing states from engaging in international aggression in the future. Even for skeptics of the universal duty to promote human rights on grounds of individual dignity, this second argument should have persuasive weight in asserting the strategic importance ofhuman rights in U.S. foreign policy. This argument would push the United States toward a far more active advocacy of human rights improvement in its bilateral relations with numerous countries. Rather than merely paying rhetorical dues to human rights, such a foreign policy would make clear to abusing states that human rights are a strategic priority of the U.S. government. It might involve linking foreign aid, trade ties, and other benefits to improvements in human rights records. [n116](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277673306408&returnToKey=20_T9633293172&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.499490.4523309976" \l "n116) In extreme cases such a policy might even suggest military intervention through U.N. mechanisms. Two brief examples--China and North Korea--are illustrative. The U.S. dialogue with China has long included human rights issues, but also made clear that human rightswould not stand in the way of a mutually beneficial economic relationship. [n117](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277673306408&returnToKey=20_T9633293172&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.499490.4523309976" \l "n117) Though other factors such as economics should still be considered, human rights should be higher on the bilateral agenda, and the United States might be well served to use trade and other leverage points more vigorously in pursuing that goal. United States policy toward North Korea presently focuses almost exclusively on nuclear and ballistic missile issues. While these issues are important, North Korea might be far less likely to use these technologies if its human rights policies improved significantly. Human rights improvement, therefore, should be higher on the agenda and an integral part of any future agreements with the North Korean government. Again, some critics may argue that the United States will waste important diplomatic capital in the pursuit of human rights. The point here is that there are good reasons--beyond ideology and based on national security--to pursue  [\*272]  human rights such that diplomatic capital will not be wasted. Nonetheless, as the Russia-Chechnya case study below illustrates, the United States will still need to balance a range of factors in formulating national security and may, at times, deem it necessary to put human rights lower on the agenda. The human rights-aggression linkage, however, provides an additional factor that augurs for greater attention to human rights in U.S. foreign policy.

Nuclear War

Chol 2 [Kim Myong, Executive Director, Tokyo-Based Center for Korean-American Peace, Policy Forum Onlinte, Oct 24, [www.nautilus.org/fora/security/0212A\_Chol.html](http://www.nautilus.org/fora/security/0212A_Chol.html) Waldman]

The second choice is for the Americans to initiate military action to knock out the nuclear facilities in North Korea. Without precise knowledge of the location of those target facilities, the American policy planners face the real risk of North Korea launching a full-scale war against South Korea, Japan and the U.S. The North Korean Retaliation will most likely leave South Korea and Japan totally devastated with the Metropolitan U.S. being consumed in nuclear conflagration. Looking down on the demolished American homeland, American policy planners aboard a special Boeing jets will have good cause to claim, “We are winners

, although our homeland is in ashes. We are safely alive on this jet.”

\*\*\*Max Hantel ‘I’m a Hippy’ 1AC\*\*\*

Max Hantel ‘I’m a Hippy’ 1AC (1/13)

Plan Text: In the next available test case, the United States Supreme Court should rule that the United States federal government must close the detention center located at Bagram Airbase on the grounds that detention at Bagram Airbase violates the Convention Against Torture.

Contention 1: Terrorism

The Supreme Court rulings on Guantanamo did not put an end to America’s practice of indefinite detention—prisons in Afghanistan now operate as legal blackholes where torture, muder, and unimaginable violence reign

**Smith and Ratner,** Human Rights Lawyer and President of the Center for Constitutional Rights, **2006** (2/27, Democracy Now, <http://www.democracynow.org/2006/2/27/worse_than_guantanamo_u_s_expands>)

Well, like Clive, the Center has many of the similar clients who have been through Bagram on their way to Guantanamo. And Moazzam Begg is another one whose story has just come out, how he was taken to Bagram, beaten, etc., and then went to Guantanamo. We are in contact with people who have family members, who have people in Guantanamo, and as Clive said, a lot of this has been known for a couple—more than two or three years. I mean, the people who were hung and tortured and killed. The underground prison has been known, and what’s really incredibly frustrating—you feel like Sisyphus, rolling the stone up the hill, when you think about finally getting some rights for people and visits to Guantanamo, and then what happens is the administration really goes and continues its illegality in other prisons around the world. So what it really says is that, yes, the struggle is around one prison like Guantanamo, but we have to really root out completely what this administration is doing around the world. **AMY GOODMAN:** Now, can you, though, explain? I mean, it sounds like the reason Bagram is growing is because of all of the international outcry around Guantanamo, but also Guantanamo’s legal relationship with the United States on a U.S. air base in Cuba. Can you explain the legality of Afghanistan, where Bagram is and Guantanamo, these two detention camps? **MICHAEL RATNER:** Well, both Clive and I were in the early case about Guantanamo, in which the U.S. tried to say Guantanamo was like Bagram, that there were no legal rights there. You couldn’t go to court for people in Guantanamo. They had no constitutional rights, and the U.S. said it could do what it wanted to people at Guantanamo. We won a big case in the Supreme Court, the Rasul case in June of 2004, that opened the courts to people at Guantanamo and opened them so people like Clive and Center lawyers could go to Guantanamo. Even with that, those set of rights, the administration, in the Graham-Levin Bill and the Detainee Treatment Act, is trying to eliminate even those rights we won in the Supreme Court. But as far as Bagram is concerned, the legal position of the administration is similar to what it was about Guantanamo. There are no legal rights, but they have the additional argument, that they would make, that because it’s not on a U.S. permanent military base like the one in Cuba, that there’s even fewer rights. I don’t think they’re correct. I think that any person detained anywhere in the world has a right to go into a court, has a right to be visited by an attorney, but the administration’s view is whatever Guantanamo rights are, the rights at Bagram are nil, absolutely none, and so what they did, according to the Times report, was a few months after we won the Rasul case, they said they stopped sending people to Guantanamo and started to send them to other places—Bagram is the one that we know the most about at this point—because the administration’s view is that no court, no lawyer, no one, has any right to visit anyone in Guantanamo—anyone in Bagram, and that nobody—and that the people at Bagram have no legal rights at all. An extraordinary statement in today’s world. **AMY GOODMAN:** Clive Stafford Smith, your response, and also what is the role, if any, of Britain in Bagram? **CLIVE STAFFORD SMITH:** Well, my response is that I think, as Michael and I and many others have said for a long time, Guantanamo is something of a distraction. That people—if you think people have been badly treated in Guantanamo, you should see what’s happened to them in other places, and what’s of real concern, arising out of theNew York Times article, is this: The Times mentioned one flight. It was actually September 19, 2004 where ten people were brought to Guantanamo. I represent a couple of those. Of those ten, all of them are extraordinary cases where people were taken and abused horribly in other places. One of my clients is Binyam Mohammed. He was rendered to Morocco. We’ve got the flight logs. We know the very names of the soldiers who were on the flight, and he was taken there, and he was tortured for 18 months, a razor blade taken to his penis, for goodness sake, and now the U.S. military is putting him on trial in Guantanamo. Hassin bin Attash, a 17 year-old juvenile who was taken to Jordan and tortured there for 16 months. There is a series of these people. Now, what that prompts is this question, that the people who have been most mistreated in Guantanamo were mistreated elsewhere, and then the administration took a very small number of them to Guantanamo, but the vast majority of them are either in Bagram or in these secret prisons around the world. And most recently, we heard of Poland. We’ve heard of Morocco. We’ve heard of various places. What I’m afraid is the truth is that the most shocking abuses have yet to come to light, that these people are in Bagram and have yet to talk to anybody, and what the administration is doing is hiding these ghastly secrets. Now, the question is: What are they going to do about that? What are they going to do when it becomes necessary at some point for these prisoners to be given lawyers? There’s a lot of horror stories, and the administration is just not going to want those horror stories to come out. So where are these prisoners going to be sent? Are they going to vanish forever?

Max Hantel ‘I’m a Hippy’ 1AC (2/13)

Obamas measures are just cosmetic- no real change will come from new initiatives at Bagram

Spiegel 2009 (“Detainees Abuse continues at Bagram” <http://www.globalpolicy.org/empire/us-un-and-international-law-8-24/torture-and-prison-abuse/48196.html> Waldman)

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The Supreme Court has no plans to overturn the district court decision- composition proves

Ghani 2010 (Aisha, Law Student @ Stanford University, “The Grim Future of Bagram Litigation”, <http://www.commondreams.org/view/2010/05/30-1> Waldman)

While the current situation is disheartening as it is, the future appears to be even less consolation for those currently detained at Bagram. Even if this case is granted certiorari and appears in front of the Supreme Court, it remains unlikely that an outcome favoring habeas will result. Consider it a combination of bad timing and bad luck, but without the presence of Justice Stevens, whose opinion swung the pendulum in favor of habeas for Guanatamo detainees in the Supreme Court's 5-4 decision in Boumediene, the remaining presiding judges are likely to reach a 4-4 decision, which would simply reaffirm the Appeals Courts' decision. The probable replacement of Justice Stevens with Supreme Court nominee Elena Kagan would also shift the historical balance in cases concerning detainees. Because Kagan has been representing the interests of the administration as Solicitor General in the Bagram litigation, she would not only recuse herself from future proceedings in this case, but will probably also end up recusing on all major detainee issues that come before the court, and this is likely to result in the Supreme Court denying certiorari in future cases.

Max Hantel ‘I’m a Hippy’ 1AC (3/13)

Prisons in Afghanistan have become some of the worst in the world. Alongside brutal physical violence, inmates are psychologically tortured. Worst of all, we have only seen the tip of the iceberg.

Goodman and Smith 2006 (Democracy Now Correspondent and Human Rights Lawer, 2/27,http://www.democracynow.org/2006/2/27/worse\_than\_guantanamo\_u\_s\_expands))

AMY GOODMAN: Clive Stafford Smith, I wanted to ask you about a piece that appeared in a paper in your country in the Guardian by Suzanne Goldenberg and James Meek. It says, "New evidence has emerged that U.S. forces in Afghanistan engaged in widespread Abu Ghraib-style abuse, taking trophy photographs of detainees and carrying out rape and sexual humiliation. Documents obtained by theGuardian contain evidence that such abuse took place in the main detention center at Bagram, near the capital, Kabul, as well at a smaller U.S. installation near the southern city of Kandahar. A thousand pages of evidence from U.S. Army investigations released to the ACLU after a long battle, made available to the Guardian." And then inside, it says, "The latest allegations from Afghanistan fit a pattern of claims of brutal treatment made by former Guantanamo Bay prisoners and Afghans held by the U.S. In December, the U.S. said eight prisoners had died in custody in Afghanistan," and this is according to you, "A Palestinian says he was sodomized by American soldiers in Afghanistan. Another former prisoner of U.S. forces, a Jordanian, describes a form of torture which involved being hung in a cage from a rope for days. Hussein Abdelkader Youssef Mustafa, a Palestinian living in Jordan, told Clive Stafford Smith he was sodomized by U.S. soldiers during detention at Bagram in 2002. He said, 'They forcibly rammed a stick up my rectum—excruciatingly painful. Only when the pain became overwhelming did I think I would ever scream, but I could not stop screaming when this happened.'" CLIVE STAFFORD SMITH: Yeah, you know, Hussein Mustafa, I met with him in Jordan, and he was an incredibly credible person. He is a dignified older gentleman, about now 50 years old, and he wanted to talk about what had happened to him, but he really didn’t want to talk about that sexual stuff, and in the end, you know, I said to him, "Look, you don’t have to, but it’s very important if things happened, that the story get out, so they don’t happen to other people," and in the end he did, and it was in front of half a dozen people who were just transfixed as he described how four soldiers took him, one on each shoulder, one bent down his head and then the fourth of them took this broomstick and shoved it up his rectum. Now there was no one in that room—and they were from a variety of places—who didn’t believe that what this man was saying was true, but I am afraid, I’ve got to tell you, that that’s far from the worst that’s happened. When you talk about Bagram, when you talk about Kandahar, those aren’t the worst places the U.S. has run in Afghanistan. The dark prison, sometimes called "Salt Pit," in Kabul itself, which is separate from Bagram, has been far worse than that, and I can tell you stories from there that just make your skin crawl. AMY GOODMAN**:** Well, why don’t you tell us something about this place? CLIVE STAFFORD SMITH**:** Yeah, I’ll tell you some of the ones, for example, that Binyam Mohammed told me. He was the man who had the razor blade taken to him. He was then taken, and again, we can prove it. We’ve got the flight logs. He was taken on January 25, 2004, to Kabul, where he was put in this dark prison for five months, and he was shackled. You just get this vision of the Middle Ages, where he’s shackled on the wall with his hands up, so he can’t quite sit down. It’s totally dark in that place. When the U.S. says that people are being treated nicely in Bagram, you’ve got to be kidding me. It’s the middle of winter, and they’re freezing to death, and this man was in this cell, no heating, absolutely freezing, no clothing, except for his shorts, totally dark for 24 hours a day with this howling noise around him. They began with Eminem music, interestingly enough; they played him Eminem music for 24 hours a day for 20 days. Seems to me Eminem ought to be suing them for royalties over that, but then it got worse and they started doing these screeching noises, and this is going on 24 hours a day, and in the mean time they would bring him out very briefly just to beat him, and this is to try to get this man to confess to stories that they now want him to repeat in military commissions in Guantanamo, and they want to say, "Oh, everything’s nice now." And what he went through, he said, was far worse than the physical torture, this psychological torture that some pervert was running in the dark prison in Kabul was worse to him, and he still suffers from it day in, day out, because of what it has done to his mind, and this is the—what we have to remember is there is someone out there who is thinking this stuff up and who is then saying that we need to do it, and this isn’t some lowly guard who loses control and does something terrible that’s physical. I mean, that’s awful. But you’ve got someone out there who is thinking through how we’re going to torture these people with this excruciating noise and these other things, and they’re doing this very, very consciously, and the story has a long way before it’s going to be out fully.

Max Hantel ‘I’m a Hippy’ 1AC (4/13)

Our future is one of prisons and punishment, violence and torture without end or limit. We have to inject ourselves into the formations of the penal society and make nameable and grievable those lives who have disappeared into the black of holes of America’s extra judicial war prisons

Brown, Professor of Crimonolgy and Sociology at Ohio State, 2005 (American Quarterly, 57:3, 973-977, MUSE)

Abu Ghraib, like Guantanamo and other U.S. military prisons, marks the kind of penal expansion that takes place in the context of wars with no end: wars on drugs, crime, and terror. In the U.S., we imprison more than anyone in the world and more than any other society has ever imprisoned for the purposes of crime control, and we do so in a manner that is defined by race.57 This unprecedented use of imprisonment has largely taken place outside of democratic checks or public interest, in disregard of decades of work by penal scholars and activists who have introduced a vocabulary of warning through terms such as "penological crisis," "incarceration binge," "prison-industrial complex," and the "warehousing" of offenders. Such massive expansion has direct effects upon the private lives of prisoners, prison workers, their families, and their communities. I have tried, at least, to point to the ways in which these effects may extend far beyond their immediate contexts into a potential reconfiguration of public life. Such unprecedented penal expenditures mark the global emergence of a new discourse of punishment, one whose racial divisions and abusive practices are revised into a technical, legal language of acceptability, one in which Americans are conveniently further distanced from the social realities of punishment through strategies of isolation and exclusion, all conducted in a manner and on a scale that exacerbates the fundamental class, race, and gender contradictions and divisions of democracy. In this respect, the "new war prison" is constituted by both material practices and a discursive language whose expansion and intensification need recognize no limits, no borders, no bounds. I have used punishment and torture interchangeably across this piece, not because I believe they are without distinction or difference, but because I believe, as history and social theory teach us, that they are grounded in the same fundamental practice: the infliction of pain. Because punishment carries pain, rupture, and trauma with it, its implementation will always be fundamentally tragic. Torture, then, is not incidental to punishment. It is at its core. Instead of accepting this reality, the history of the practice and study of punishment is marred by an assumption that intention matters, that explanations and justifications define punishment and its appropriate use, and that the law can control its violence. However, these kinds of assumptions conceal the presence of the law itself. When punishment is invoked, it is always intended to remind the people of the power and presence of the state. However, this is an invocation that is precisely meant to be avoided in democratic contexts, as strong governments have no need to rely upon force. According to both Nietzsche and Durkheim, it is a weak state that will resort to a display offeree and violence. Any regime that decides to inflict pain and harm will inevitably find itself caught up in a unique social institution whose essence is violence and whose justifications are inherently problematic. Punishment is, thus, always most usefully understood at its most elemental level: as a bloodlust for revenge, one whose essence is passion, unreason, anger, and emotion, whose invocation is highly individualized, subjective, and personal, an insatiable urge that knows no limits. In such a setting, as sociolegal scholar Austin Sarat argues, a "wildness" is introduced into the "house of law," wherein "private becomes public and public becomes private; passion is introduced into the temple of reason, and yet passion itself is subject to the discipline of reason. Every effort to distinguish revenge and retribution nevertheless reveals that Vengeance arrives among us in a judicious disguise.'"58 The vengeance that underlies the implied calm reason of systematic, procedural, proportional retribution cannot be repressed and is evidenced in contemporary patterns of punishment in the United States that often defy a rational logic of any kind. Any solidarity or sociality gained at the price of such punishment, then, speaks not only to the end of democracy but of humanity as well. And so we went from September 11 to a war on terror, from Abu Ghraib to the summer of beheadings in an endless repetition whose limits are defined currently only in the possibility of sheer exhaustion. For American studies, this means that Abu Ghraib operates at a series of intersections and borders that have rendered the fundamental contradictions of imprisonment in a democratic context acutely visible, if only temporarily. As the impossible case for democracy, the "scandal" at Abu Ghraib reveals how an unmarked proliferation of penal discourses, technologies, and institutions not only "set the conditions" for the grossest violations of democratic values but revealed the normalcy and acceptability of these kinds of practices in spaces beyond and between the law. Consequently, Abu Ghraib falls within a distinct category of legal and territorial borders, those spaces that sociolegal scholar Susan Bibler Coutin observes "defy categories and paradigms, that 'don't fit,' and that therefore reveal the criteria that determine fittedness, spaces whose very existence is simultaneously denied and demanded by the socially powerful." Capturing the sense of doubleness that characterizes Abu Ghraib, she describes these "targets of repression and zones of militarization" as contradictory spaces that "are marginalized yet strategic, inviolate yet continually violated, forgotten yet significant."59 Many peoples exist at these borders, and all stories may be told there. But, and this is of crucial significance, there is no guarantee that these stories will be told. So much of the writing and thought surrounding the borderlands has been directed at the development of a new social vision, derived from the pain of history and experience, but grounded in the celebratory justice of the inevitable, vindicating arrival of the hybrid. As Gloria Anzaldua insists, "En unaspocas centurias, the future will belong to the mestiza."60 Yet Abu Ghraib falls squarely into the kind of border zone that cannot be celebrated, a subaltern site where many stories and voices will never be told or heard, no matter how we reconstruct its history and its events. Judith Butler observes that the subject outside of the law "is neither

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alive nor dead, neither fully constituted as a subject nor fully deconstituted in death."61 Under Saddam Hussein's rule, numberless thousands were lost in the prison. Under American occupation, "ghost detainees" were a prevalent problem, unidentified, vanished inside the institution's own lost accountability. As Zizek points out, these individuals constitute the "living dead," those missed by bombs in the battlefield, "their right to life forfeited by their having been the legitimate targets of murderous bombings." This positioning has direct impact upon the legal privilege of their captors: "And just as the Guantánamo prisoners are located, like homo sacer, in the space 'between two deaths,' but biologically are still alive, the U.S. authorities that treat them in this way also have an indeterminate legal status. They set themselves up as a legal power, but their acts are no longer covered and constrained by the law: they operate in an empty space which is, nevertheless, within the domain of the law."62 The spectacle of abuse at Abu Ghraib makes plain the consequences of putting prisoners and custodians in this space "between two deaths," a legal borderland filled with spectral violence, a space packed with people and yet profoundly empty of its humanity. Bibler Coutin writes, "I cannot celebrate the space of nonexistence. Even if this space is in some ways subversive, even if its boundaries are permeable, and even if it is sometimes irrelevant to individuals' everyday lives, nonexistence can be deadly."63 When writing of Abu Ghraib, I find myself in a similar space, peering in at a border whose history, purpose, and foundations prevent it from being redeemed or reclaimed, its terrorized inhabitants the essence of Anzaldua's "zero, nothing, no one."64 Abu Ghraib reminds us then of the pains we had hoped to transcend, of the "intimate terrorism" we had hoped to end, of the bloody sovereignty we had hoped to eclipse in a postnational context.65 As Anzaldua observed of "life in the borderlands" nearly two decades ago: The world is not a safe place to live in. We shiver in separate cells in enclosed cities, shoulders hunched, barely keeping the panic below the surface of the skin, daily drinking shock along with our morning coffee, fearing the torches being set to our buildings, the attacks in the street. Shutting down . . . The ability to respond is what is meant by responsibility, yet our cultures take away our ability to act-shackle us in the name of protection. Blocked, immobilized, we can't move forward, we can't move backwards. That writhing serpent movement, the very movement of life, swifter than lightning. Frozen.66 In the working vocabulary and memory of a penal culture, Abu Ghraib remains a border lost to us, accessible only through the fixed and frozen images that remind us of its irrevocableness. We find ourselves, in a sense, at a new border that is very old, caught at the crossroads, left alone with America, asking, and with considerable trepidation, what will our futures be?67

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And, dehumanization is not some amorphous impact: it is the critical internal link to violent racism and torture, seen again and again throughout time

Hooks and Mosher, Washington State University, 2005 (Social Forces, 83.4, 1627-1645, MUSE)

The abuse documented at Abu Ghraib and other U.S. detention facilities goes beyond the callousness of training manuals and interrogation techniques. Guards and other military personnel assaulted prisoners in cruel fashion - and did so without concern for extracting information. Researchers have long documented that the dehumanization of prisoners (the "enemy") contributes to abuse. And clearly, over the course of history the United States (and other "great powers") has demonized and dehumanized its "enemies." The Japanese attack on Pearl Harbor seemingly justified the internment of more than 100,000 Japanese Americans during World War II and the dropping of atomic bombs in Hiroshima and Nagasaki. A letter written by Paul Glen, a military specialist from the America 1 Division which was involved in the My Lai Massacre, explains how dehumanization of the Vietnamese contributed to the rape and massacre of men, women and children. "Far beyond merely dismissing the Vietnamese as 'slopes' or 'gooks' in both deed and thought, too many American soldiers seem to discount their very humanity." (Goff 2004) The Bush administration used the 9/11 attacks to justify the invasion of Iraq. In so doing, it reinforced the demonization and dehumanization of Iraqis (and all Arabs) among the military - and American citizens more generally (Goff 2004). For example, Captain Douglas Zembiec told the Los Angeles Times, "From day one I've told [my troops] that killing is not wrong if it's for a purpose. If it's to keep your nation free or to protect your buddy . . . one of the most noble things you can do is kill the enemy." (Perry 2004:120). Although he apparently later regretted the fact that he had killed innocent civilians, Sergeant Jimmy Massey acknowledged that he and other soldiers were inspired by Bush's characterization of Iraq. "My president told me they got weapons of mass destruction, that Saddam threatened the free world, that he had all this might and could reach us anywhere," Massey said. "I just bought into the whole thing." (Floyd 2004). A guard who served at Bagram (Afghanistan) suggested that this demonization was pervasive in the U.S. military: "We were pretty much told that they were nobodies, that they were just enemy combatants. I think that giving them the distinction of soldier would have changed our attitudes toward them. A lot was based on racism, really. We called them Hajis, and that psychology was really important." (Jehl and Elliott 2004:A1)7 In their book The Interrogators, Chris Mackey8 and Greg Miller report that members of an interrogation unit received mail from schoolchildren that served to "brighten everyone's day." Among the messages were: "Go get the bad men;" and "I hope you kill them all," accompanied by pictures of soldiers shooting at men in beards (2004:182). One drawing, sent by a 9-year-old girl from a Catholic grade school, "Our Lady of Peace," had pictures of airplanes dropping bombs and "small figures at the bottom of the picture, all in turbans, fleeing for their life and flailing their arms." This drawing came with the following caption: "We are praying for you and saying the rosary in class for you today." (Mackey and Miller 2004:182) Perhaps the most obvious manifestation of this dehumanization is the fact that the Pentagon has not conducted body counts in the current Iraq war. While the death of the 1,000th American soldier in Iraq during September of 2004 generated considerable media attention, far less attention has been paid to the number of Iraqi citizens killed.9 As of December 2004, conservative estimates are that 10,000 to 30,000 Iraqis have lost their lives (Mroue 2004). Many place this figure at more than 100,000 (Roberts et al. 2004). As Hedges commented, "While we venerate and mourn our dead, we are curiously indifferent about those we kill. . . . Our dead. Their dead. They are not the same. Our dead matter, theirs do not." (2003:13-14) While U.S. officials claimed that many of these deaths were attributable to "insurgents and criminals," a representative of the Human Rights Organization in Iraq stated the obvious: "[T]he main responsibility behind those Iraqi civilian deaths lies with the occupation because those victims would not have fallen had there not been an occupation." (Mroue 2004:A13)

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This Securitizing Rhetoric seduces us to perform the states murder with gusto

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

To (re)consolidate itself, empire requires and solicits the production of certain ways of being, desiring, and knowing (while destroying others) that are appropriately malleable for what comes to be constituted as the so-called new world order.12 Just as the strategies of execution and criminalization are crucial to the practices of global war, including prisons, this strategy of creating and liquidating enemies is offered, quite importantly in the wake of trauma, as a solution for fear and insecurity. In other words, as the imperial hold grows all the more tenuous, more and more violence is required to maintain its virulent mirage.13 To deal with pain, fear, and insecurity, this logic tells us, the demonization and demolition of the racially and sexually aberrant other must be performed again and again.14 Moreover, within this imperial fantasy, this production, consumption, and murder of the other is to be performed with gusto and state-sanctioned pleasure, as a desire for witnessing executions becomes a performance of state loyalty.15 Likewise, in the case of prisons, it is the continual and powerful mobilization of discourses of “protection,” “safety,” and “victim’s rights” that elicit support for what seems to be limitless prison expansion.16 Lastly, it is our argument that this promise project is always reliant on a series of (non)promises to those on whom the entire production is staged. Offering certain classes of subjects a tenuous invitation into the folds of empire, there are always the bodies of (non)subjects that serve as the raw material for this process, those whose quotidian deaths become the grounding on which spectacularized murder becomes possible. Thus, while it is central to our thesis that the sexualized production of the racialized other holds together these ostensibly different moments, this is a variegated and heterogeneous process that simultaneously creates others as monolithic and draws up and exacerbates internal divisions within different communities. There are, thus, the “enemy Others” and the “other Others” whose life and death do not even merit mention or attention.17

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Examining the images of prisoner abuse in the War on Terror and beyond are a critical educational question. Precisely the conditions that led to such abuses must be analyzed if we are to avoid a state of permanent war and a culture of fear

Giroux 2004 (Comparative Studies of South Asia, Africa and the Middle East, 24:1, 3-22, MUSE)

Hence, the photographic images from Abu Ghraib prison cannot be analyzed outside of history, politics, or ideology. This is not to suggest that photographs do not record some element of reality as much as to insist that what they capture can only be understood as part of a broader engagement over cultural politics and its intersection with various dynamics of power, all of which informs the conditions for reading photographs as both a pedagogical intervention and a form of cultural production.[46](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT46) Photographic images reside neither in the unique vision of their producer nor in the reality they attempt to capture. Representations privilege those who have some control over self-representation, and they are largely framed within dominant modes of intelligibility. The Abu Ghraib photographs are constitutive of both diverse sites and technologies of pedagogy, and as such represent political and ethical forms of address that make moral demands and claims upon their viewers. Questions of power and meaning are always central to any discussion of photographic images as forms of public pedagogy. Such images not only register the traces of cultural mythologies which must be critically mediated, they also represent ideological modes of address tied to the limits of human discourse and intelligibility, and function as pedagogical practices regarding how agency should be organized and represented. The pictures of abuse at Abu Ghraib prison gain their status as a form of public pedagogy by virtue of the spaces they create between the sites in which they become public and the forms of pedagogical address that both frame and mediate their meaning. As they circulate through various sites, including talk radio, computer screens, television, newspapers, the Internet, and alternative media, they initiate different forms of address, mobilize different cultural meanings, and offer up different sites of learning. The meanings that frame the images from Abu Ghraib prison are "contingent upon the pedagogical sites in which they are considered,"[47](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT47) and their ability to limit or rule out certain questions, historical inquiries, and explanations. For example, news programs on the Fox Television Network systematically occlude any criticism of the images of abuse at Abu Ghraib that would call into question the American presence in Iraq. If such issues are raised, they are quickly dismissed as unpatriotic. Attempts to defuse or rewrite images that treat people as things, as less than human, have a long history. Commentators have invoked comparisons to the images of lynching of black men and women in the American South and to Jews in Nazi death camps. John Louis Lucaites and James P. McDaniel have documented how *Life Magazine* during World War II put a photograph on its cover of a woman gazing pensively at the skull of a Japanese solider sent to her by her boyfriend serving in the Pacific, a lieutenant who, when he left to fight in the war, "promised her a Jap."[48](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT48) Far from reminding its readers of the barbarity of war, the magazine invoked the patriotic gaze in order to frame the barbaric image as part of a public ritual of mortification and a visual marker of humiliation of the Other. As forms of public pedagogy, photographic images must be engaged ethically as well as socio-politically because **[End Page 8]** they are implicated in history, and they often work to suppress the very conditions that produce them. Often framed within dominant forms of circulation and meaning, such images frequently work to legitimate particular forms of recognition and meaning marked by disturbing forms of diversion and evasion. This position is evident in those politicians who believe that the photographs from Abu Ghraib are the real problem—not the conditions that produced them. Or in the endless commentaries that view the abuses at Abu Ghraib as caused by a few "bad apples." Subjecting such public pronouncements to critical inquiry can only emerge within those pedagogical sites and practices in which matters of critique and a culture of questioning are requisite to a vibrant and functioning democracy. But public pedagogy at its best offers more than forms of reading that are critical and that relate cultural texts, such as photographs, to the larger world. Public pedagogy not only defines cultural objects of interpretation, it also offers the possibility for engaging modes of literacy that are not just about competency but also about the possibility of interpretation as an intervention in the world. Meaning does not rest with the images alone, but with the ways in which images are aligned and shaped by larger institutional and cultural discourses and how they call into play the condemnation of torture (or its celebration), how it came about, and what it means to prevent it from happening again. This is not merely a political issue but also a pedagogical one. Making the political more pedagogical in this instance connects what we know to the conditions that make learning possible in the first place. It creates opportunities to be critical, but also, as Susan Sontag notes, opportunities to "take stock of our world, and [participate] in its social transformation in such a way that non-violent, cooperative, egalitarian international relations remain the guiding ideal."[49](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT49) While Sontag is quite perceptive in pointing to the political nature of reading images, a politics concerned with matters of translation and meaning, she does not engage such reading as a pedagogical issue. As part of a politics of representation, a useful reading of photographic images necessitates the ability both to read critically and to utilize particular analytical skills that enable viewers to study the relations among images, discourses, everyday life, and broader structures of power. As both the subject and object of public pedagogy, photographs simultaneously deploy power and are deployed by power, and register the conditions under which people learn how to read texts and the world. Photographs demand an ability to read within and against the representations they present and to raise fundamental questions about how they work to secure particular meanings, desires, and investments. As a form of public pedagogy, photographic images have the potential to call forth from readers modes of witnessing that connect meaning with compassion, a concern for others, and a broader understanding of the historical and contemporary contexts and

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relations that frame meaning in particular ways. Critical reading demands pedagogical practices that short-circuit common sense, resist easy assumptions, bracket how images are framed, engage meaning as a struggle over power and politics, and as such refuse to posit reading (especially images) exclusively as an aesthetic exercise, positing it also as a political and moral practice. What is often ignored in the debates about Abu Ghraib, both in terms of its causes and what can be done about it, are questions that foreground the relevance of critical education to the debate. Such questions would clearly focus, at the very least, on what pedagogical conditions need to be in place to enable people to view the images of abuse at Abu Ghraib prison not as part of a voyeuristic, even pornographic, reception, but through a variety of discourses that enable them to ask critical and probing questions that get at the heart of how people learn to participate in sadistic acts of abuse and torture, internalize racist assumptions that make it easier to dehumanize people different from themselves, accept commands that violate basic human rights, become indifferent to the suffering and hardships of others, and view dissent as fundamentally unpatriotic. What pedagogical practices might enable the public to foreground the codes and structures which give photographs their meaning while also connecting the productive operations of photography with broader discourses? For example, how might the images from Abu Ghraib prison be understood as part of a broader debate about dominant information networks that not only condone torture, but also play a powerful role in organizing society around shared fears rather than shared responsibilities? Photographs demand more than a response to the specificity of an image; they also raise fundamental questions about the sites of pedagogy and technologies that produce, distribute, and frame these images in particular ways, and what these operations mean in terms of how they resonate with established relations of power and the identities and modes of agency that enable such relations to be reproduced rather than resisted and challenged. Engaging the photographs from Abu Ghraib and the events that produced them would point to the pedagogical practice of foregrounding "the cultures of circulation and transfiguration within which those texts, events, and practices become palpable and are recognized as such."[50](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT50) For instance, how do we understand the Abu Ghraib images and the pedagogical conditions that produced them without engaging the discourses of privatization, particularly the contracting of military labor, the intersection of militarism and the crisis of masculinity, the war on terrorism, and the racism that makes it so despicable? **[End Page 9]** How might one explain the ongoing evaporation of political dissent and opposing viewpoints in the United States that preceded the events at Abu Ghraib without engaging the pedagogical campaign of fear-mongering, adorned with the appropriate patriotic rhetoric, waged by the Bush administration? I have spent some time suggesting that there is a link between how we translate images and pedagogy because I am concerned about what the events of Abu Ghraib prison might suggest about education as both the subject and object of a democratic society and how we might engage it differently. What kind of education connects pedagogy and its diverse sites to the formation of a critical citizenry capable of challenging the ongoing quasi-militarization of everyday life, the growing assault on secular democracy, the collapse of politics into a permanent war against terrorism, and a growing culture of fear that is increasingly used by political extremists to sanction the unaccountable exercise of presidential power? What kinds of educational practices can provide the conditions for a culture of questioning and engaged civic action? What might it mean to rethink the educational foundation of politics so as to reclaim not only crucial traditions of dialogue and dissent but also critical modes of agency and those public spaces that enable collectively engaged struggle? How might education be understood both as a task of translation and as a foundation for enabling civic engagement? What new forms of education might be called forth to resist the conditions and complicities that have allowed most people to submit "so willingly to a new political order organized around fear?"[51](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT51) What does it mean to imagine a future beyond "permanent war," a culture of fear, and the triumphalism that promotes the sordid demands of empire? How might education be used to question the common sense of the war on terrorism or to rouse citizens to challenge the social, political, and cultural conditions that led to the horrible events of Abu Ghraib? Just as crucially, we must ponder the limits of education. Is there a point where extreme conditions short-circuit our moral instincts and ability to think and act rationally? If this is the case, what responsibility do we have to challenge the reckless violence-as-first-resort ethos of the Bush administration? Such questions extend beyond the events of Abu Ghraib, but, at the same time, Abu Ghraib provides an opportunity to connect the sadistic treatment of Iraqi prisoners to the task of redefining pedagogy as an ethical practice, the sites in which pedagogy takes place, and the consequences of pedagogy to rethinking the meaning of politics in the twenty-first century. In order to confront the pedagogical and political challenges arising from the reality of Abu Ghraib, I want to revisit a classic essay by Theodor Adorno in which he tries to grapple with the relationship between education and morality in light of the horrors of Auschwitz. While I am certainly not equating the genocidal acts that took place at Auschwitz to the abuses at Abu Ghraib—a completely untenable analogy—I do believe that Adorno's essay offers some important theoretical insights on how to think about the larger meaning and purpose of education as a form of public pedagogy in light of the Abu Ghraib prison scandal. Adorno's essay raises fundamental questions about how acts of inhumanity are inextricably connected to the pedagogical practices that shape the conditions that bring them into being. Adorno insists that crimes against humanity cannot simply be reduced to the behavior of a few individuals; rather, they speak in profound ways to the role of the state in propagating such abuses, the mechanisms employed in the realm of culture that silence the public in the face of horrible acts, and the pedagogical challenge that would name such acts as a moral crime against humankind, and so translate that moral authority into effective pedagogical practices throughout society so that such events never happen again. Of course, the significance of Adorno's comments extend far beyond matters of responsibility for what happened at Abu Ghraib prison.

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Adorno's plea for education as a moral and political force against human injustice is just as relevant today as it was following the revelations about Auschwitz and other death camps after World War II. As Roger W. Smith points out, while genocidal acts have claimed the lives of over sixty million people in the twentieth century, sixteen million of them have taken place after 1945.[52](http://muse.jhu.edu.floyd.lib.umn.edu/journals/comparative_studies_of_south_asia_africa_and_the_middle_east/v024/24.1giroux.html#FOOT52) The political and economic forces fueling such crimes against humanity--whether they are unlawful wars, systemic torture, practiced indifference to chronic starvation and disease, or genocidal acts—are always mediated by educational forces, just as the resistance to such acts cannot take place without a degree of knowledge and self-reflection about how to name these acts and how to transform moral outrage into concrete attempts to prevent such human violations from taking place in the first place.

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Contention 2: Racial Profiling

Detention at Bagram has made Muslim synonymous with terrorist- this racialized reduction creates further power dichotomies throughout social relations

Philipose 2007- Department of Women’s Studies California State University, Long Beach The Politics of Pain and the Uses of Torture *ournal of Women in Culture and Society* 2007, vol. 32, no. 4 Waldman)

Since September 11, 2001, the equation of *Muslim* with *terrorist* has lodged in the popular imagination in the United States. This conflation undermines the ability to distinguish between a few individuals who have committed or intend to commit acts of extrastate violence (terrorism) and the rest of the Muslim population, a population that consists of more than 1 billion people worldwide. Although public discussions of the so‐called Muslim terrorist are often accompanied by disclaimers acknowledging that not all Muslims are a problem or that the political abuse of Islam, rather than Islam itself, is a problem, these caveats fail to dislodge the increasingly intractable conflation of Muslim with terrorist. This article examines how the racialized terrorist is produced through various war‐on‐terror tactics, including the indefinite detainment and torture of prisoners in U.S. military detention centers and the circulation of torture photographs. A long history of Euro‐American racialization of Muslim and Arab peoples traverses contemporary discussions.[1](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn2) The one‐dimensional concept of the Muslim has long circulated as a homogenizing fabrication, having little to do with the diverse beliefs, practices, geographies, histories, or ethnicities of people who identify as Muslim. Yet the new raced‐gendered grammar that collapses Muslim into terrorist has certain unique features, peremptorily designating any act, speech, or movement made by a Muslim, or a person perceived to be Muslim, as the act, speech, or movement of a terrorist. Resting on gendered assumptions of men as hyperpatriarchal and misogynistic and women as victimized and ubiquitously burka‐clad, the Muslim terrorist becomes the container for gendered attributes that signify the antimodern, religiously fanatical, and sexually deviant terrorist. Like older modes of racialization, this new racial grammar relies on visual cues to signal the deeper, hidden nature of the terrorist. It incorporates faulty biologism, suggesting that physical traits are keys to the interior moral turpitude of the individual terrorist. And it recklessly universalizes terrorist propensities to those marked by the visual cues. Invested in rigid distinctions between masculinity and femininity and in clearly defined parameters of acceptable (hetero)sexuality, this new racial grammar links gender, sexuality, and desire to lineage, heredity, and kinship. I argue that certain tactics of the war on terror, including the circulation of the Abu Ghraib photos, have contributed to the cultural production of the Muslim terrorist and the solidification of the new racial grammar rooted in a regime of visibility. Racial profiling, a visual technology of power, has played a critical role in the capture and detention of war‐on‐terror prisoners. People are designated as suspicious based on their ascriptive and surface characteristics—skin color, national origin, and name. Thus, to be arrested and detained ipn Abu Ghraib, Bagram Air Base, Guantánamo Bay Naval Base (Camp Delta), the Manhattan Detention Center, or in the numerous third‐country and secret detention centers across the world is to be racialized as terrorist.[2](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn3) But racialization does not rely exclusively on profiling. The much‐publicized treatment of detainees, ranging from the use of torture to forced feeding to indefinite detention, constitutes a racial reduction that turns human subjects into objects. Through techniques designed to destroy personality, individuality, and agency, detainees are brought into being as subhuman. Through sanctioned violence that is at once racialized and racializing, the abject racial object is produced at times under the suspension of law but more recently through the rightful application of law approved by the U.S. Congress. To enter the public imagination, the racializing technology of the detention centers must be relocated, shifted from clandestine offshore sites to mainstream mechanisms of visuality. Effective racialization requires the development of a new way of seeing the abject. The global circulation of the Abu Ghraib photographs depicting detainees being tortured by U.S. soldiers played a critical role in the cultivation of a new regime of looking. Although the photographs were circulated by the Western media as a manifestation of outrage at the abuses depicted and as a means to provoke official inquiry into prisoner abuse, such benign intentions do not exhaust the uses of images of torture

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The creation of the ‘terrorist’ has become a seductive manipulation to mobilize the masses in full force for our imperialistic aggression

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

M. Jacqui Alexander has helped to articulate the ways in which this process of “incorporation and quarantining” is part of larger processes of “enemy production,” which are foundational to projects of nation- and empire-building. For Alexander, enemy production elicits the labor of gatekeepers in exchange for seductive promises of membership into the (so-called) new world order. Turning to the 2001 and 2002 forms of the U.S. PATRIOT Act, as well as to the National Security Act of 2004, Alexander traces how such acts exemplify the logics of empire that rouse desire to “explicitly and simultaneously link the imperial project to militarization and nation building.” In this production, a certain mooring of desire and the production and mobilization of pleasure is summoned up in the affective calling toward “enemy production.” This process, she argues, is crucial in the ongoing solidification of the prison industrial complex as a (re)colonizing gesture. As she writes: Nation building can be . . . accurately understood as a form of hypernationalism with constituent parts: the manufacture of an outside enemy to rationalize military intervention, and secure the annexation of lands; the production of an internal enemy to rationalize criminalization and incarceration; the internal production of a new citizen patriot; the creation and maintenance of a permanent war economy, whose internal elements devolve on the militarization of the police and the resultant criminalization of immigrants, people of color, working class communities through the massive expansion of a punishment economy whose center is the prison industrial complex.23A populace increasingly willing to engage in this process must also participate in the production of an external enemy in the form of the “terrorist,” as well as the formation of an internal enemy in the form of the “criminal.” Such simultaneous formations anchor a desire for safety and security to the violent work of colluding with the state and the market in producing enemies, in turn justifying nothing less than murder. Stated otherwise, once such enemies and criminals are produced, their degradation and murder is ostensibly justified. Furthermore, these formations depend on the mobilization of racialized psychic and libidinal economies: “It is [a] dark inside threat that must be cordoned off, imprisoned, expulsed and matched simultaneously with the extinction of the dark, external threat, in order that the borders of the fictive, originary nation be secured.”24

Max Hantel ‘I’m a Hippy’ 1AC (12/13)

Through this Racialization we exonerate ourselves assuaging our guilt- we are the righteous ‘they’ are the terrorist

Philipose 2007- Department of Women’s Studies California State University, Long Beach The Politics of Pain and the Uses of Torture *ournal of Women in Culture and Society* 2007, vol. 32, no. 4 Waldman)

Operating through a regime of visibility, racialization maps the body with an overlay of discrete meanings. But how are new modes of racialization concretized in regimes of looking? A comparison of U.S. lynching photography and the Abu Ghraib photographs can shed light on this complex question. The circulation of both lynching photographs and Abu Ghraib torture photos contributes to the production of particular regimes of visibility in which racialized bodies are marked not only by skin color or physical features but also by the representation of bodies as abject, sexualized, and decerebralized. The images depict racial violence in contexts that exonerate the perpetrators of violence by suggesting the culpability of the violated. Just as lynching was taken as evidence of the criminality of the black male, the torture photos implicate the detainees in practices that produced their detention. Within racialized regimes of looking, moral judgment is confounded as victims are turned into suspects and the perpetrators of violence are depicted as righteous agents. Despite clear evidence of abuse inflicted by whites, terror becomes a racial marker reserved for blacks, dissidents, minorities, and Muslims. As bell hooks has noted, “One fantasy of whiteness is that the threatening Other is always a terrorist. This projection enables many white people to imagine there is no representation of whiteness as terror, as terrorizing” (hooks [1992](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf26), 174). Although hooks acknowledges that in certain locations whiteness represents for black people “the terrible, the terrifying, the terrorizing” (170), it is a terror that cannot be named within the terms of whiteness. Despite manifold instances of documented terror by white men, the representation of whiteness as terror is excluded from public discourse, just as the idea of whiteness as a racial formation is discounted. In hegemonic discourses, race is attributed only to nonwhites, as a homogenizing and deep biological set of characteristics of undifferentiated masses. In contrast, white people “are imagined as individuals and as endlessly and ethnically diverse” (Apel [2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf3), 26).

Max Hantel ‘I’m a Hippy’ 1AC (13/13)

This racialized framing justifies lawless genocide

Philipose 2007- Department of Women’s Studies California State University, Long Beach The Politics of Pain and the Uses of Torture *ournal of Women in Culture and Society* 2007, vol. 32, no. 4 Waldman)

The terrorist occupies its own discursive field in Western imaginations, a field that is at once separate from and conjoined with strains of orientalism. In international law, as Ileana Porras has noted, the terrorist is a distinctly Western invention, a name given to those who challenge states’ monopoly over the use of violence ([1995](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf37), 294). In her words, “terrorism has come to be the thing against which liberal Western democracies define themselves; … terrorism has come to be the repository of everything that cannot be allowed to fit inside the self‐image of democracy; and … the terrorist has become the ‘other’ that threatens and desires the annihilation of the democratic ‘self’ … an external force against which democracies therefore must strenuously defend” (295). The communist, the religious fanatic, the nomad, the invader, and the Islamic fundamentalist have all had a place in terrorism studies. Since the fall of the Soviet system, images of the Arab terrorist have been ubiquitous in U.S. terrorism studies and in media representations, occupying a place in the U.S. discursive imagination once reserved for those of the Soviet Union. Even prior to his conviction for seditious conspiracy in the 1993 World Trade Center bombings, Sheik Omar Abdel Rahman became the face of terrorism in popular media. Porras notes how particular visual cues tied to presumptions about interior states became the defining features of the terrorist. It is his turbaned and robed blindness that is immediately familiar. He is more recognizable than the other fourteen accused co‐conspirators because he is bedecked with the attributes of his frightening otherness, the cruel Ottoman. The turban and the robe of that other fanatic, nemesis of the west, the Ayatollah Khomeini. Sheik Rahman is frequently described as blind, self‐exiled and smiling. These are the further attributes of his fanaticism. The blindness of terrorist violence is visibly conveyed. Sheik Rahman’s exile is rendered suspicious. … The Sheik’s capacity to continue smiling, in the face of the horrors of which he is accused, suggests that he is “crazy” and/or morally degenerate, and therefore, dangerous. (Porras [1995](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf37), 303) Within the Western imaginary the terrorist is an outlaw of a particular sort. Within a framework that restricts terrorism to nonstate actors, the terrorist is constructed as a stateless and illegitimate combatant who has chosen exile from the law. Against such a menace, legitimate states are unconstrained. They have no obligation to adhere to the laws of war or to civil and international covenants concerning incarceration, deportation, the use of torture, or the right to a legal defense: “By placing himself voluntarily outside of the law, the terrorist loses his claim on the law” (Porras [1995](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf37), 307).

This genocidal decerebralization makes life a sterile process devoid of any value

Philipose 2007- Department of Women’s Studies California State University, Long Beach The Politics of Pain and the Uses of Torture *ournal of Women in Culture and Society* 2007, vol. 32, no. 4 Waldman)

The process of decerebralization—an integral aspect of torture—entails physical and psychological practices that turn subject into object (Carby [2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf8)). Psychological and mental cruelty, humiliation, shaming, religious and cultural defilement, sexualized violence, and attacks on masculinity and femininity are all elements that further remove the detainee from the terrain of the human. The notion of ghost detainees, which refers to those who are outside of legal protections and public knowledge, exudes a sense of this depersonalized empty presence stripped of self. As John T. Parry ([2005](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf33), 533) suggests, “when one is a ghost … one is already separate from one’s body, not to mention from one’s family, community, and other support networks. … The ghost … is by definition hidden, exceptional, and dominated.” The “epidermalization of inferiority” is not the only means through which torture turns subject into object (Fanon [1967](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf17), 13). Fanon’s astute analysis of the mechanisms of epidermalization or racialization drew upon the French torture of Algerians as well as the effects of colonial occupation on the psyche of the colonized. In *Black Skin, White Masks* ([1967](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf17)), Fanon provides detailed accounts of the phenomenology of racialization, rooted in regimes of visibility entrenched in interpersonal encounters through which the French interpellated the “Negro” as an abject object, altogether other. Yet whether in the context of colonial encounter, lynching, everyday practices of racism, or torture, decerebralization is a primary manifestation of the racialization of people whose human status is displaced by a profound objectification.

\*\*\*I-Law Advantage\*\*\*

I-Law Internal

Previous i-law cases uphold giving habeus corpus rights to detainees at bagram

Cohen 2008 (Harlan Grant, University of Georgia School of Law, “INTERNATIONAL DECISIONS: MUNAF V. GEREN: Jurisdiction of U.S. courts to hear claims regarding detention in Iraq--reach of habeas corpus--exclusive sovereign jurisdiction over crimes within territory--assessing concerns of torture”, American Journal of International Law 102 A.J.I.L. 854, Lexis, Waldman)

The resulting jurisdictional test that the Court adopts thus seems notably functionalist: federal courts have jurisdiction over a petitioner "when the United States official charged with his detention has 'the power to produce' him" (p. 2217). [n15](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277141664409&returnToKey=20_T9594992923&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.741240.1626807282" \l "n15) Such a functional test for the habeas statute echoes Boumediene's constitutional test of "plenary control" or "practical sovereignty." [n16](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277141664409&returnToKey=20_T9594992923&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.741240.1626807282" \l "n16) It also suggests a wider range of situations in which habeas may be available. Munaf does not foreclose, for example, statutory habeas jurisdiction over noncitizen detainees held by U.S. forces at Bagram airbase in Afghanistan. On the contrary, to the extent to which detainees there are not held at the behest of Afghanistan or on behalf of its criminal justice system, Munaf suggests that release may be an available remedy should their petitions be granted. Munaf also seems to lower one hurdle to finding constitutional habeas jurisdiction over Bagram detainees. In Boumediene, the Court indicated that even when a facility was sufficiently within the plenary control of the United States, habeas might nonetheless be inappropriate "if the detention facility were located in an active theater of war." [n17](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277141664409&returnToKey=20_T9594992923&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.741240.1626807282" \l "n17) The Court's willingness to extend habeas to Camp Cropper in Iraq suggests a narrow view of "active theater of war" that might not include Bagram.

I-Law Internal- Geneva Convention

us interrogation techiniques at bagram undermine international law- geneva convention

Press 2002 (Eyal, journalist whose work has appeared in the New York Times Magazine, The Nation, Atlantic Monthly, and other publications, “Tortured Logic: Thumbscrewing International Law” <http://www.amnestyusa.org/magazine/tortured.html>” Waldman)

When U.S. Defense Secretary Donald Rumsfeld charged in March that Iraq had violated the Geneva Conventions by parading captured U.S. soldiers on television, the U.S. media were awash with stories about the fine-points of international law. Article 13 of the Geneva Conventions does in fact state that prisoners “must at all times be protected…against insults and public curiosity.” But there is something else that the Geneva Conventions prohibit: torture. And on this score, Rumsfeld and others in the Bush administration have been notably less attentive to the letter of the law. Recent revelations in the media suggest that torture is becoming acceptable in some quarters of the U.S. government, with terrorism replacing communism as the official rationale. And as during the cold war when U.S. trainers taught torture techniques, Washington’s tolerance of such practices could have a ripple effect around the world. A Washington Post story on Dec. 26 detailed allegations of torture and inhumane treatment of some of the thousands of suspects the U.S. has apprehended since the Sept.11 terrorist attacks. U.S. Army Special Forces often “soften up”—that is, beat up—Al Qaeda captives held at the CIA interrogation centers overseas before interrogating them, according to the front-page report. Interrogators have also thrown suspects against walls, hooded them, deprived them of sleep, bombarded them with light, and bound them with duct tape in painful positions. Referred to by officials as “enemy combatants,” the prisoners have no access to lawyers, reporters, and most outside agencies, including Amnesty International. Such methods, at the least, constitute cruel and inhumane treatment and may rise to the level of inflicting “severe pain or suffering, whether physical or mental,” the official benchmark of torture set forth in the U.N. Convention Against Torture. The U.S. government insists it is conforming to international law, but one unnamed official told the Post, “If you don’t violate someone’s human rights some of the time, you probably aren’t doing your job.” At least two prisoners have been killed in U.S. custody. In March, the story broke that death certificates for two Al Qaeda suspects at the Bagram base in Afghanistan showed both to have been killed by “blunt force injuries.” A military doctor listed the deaths as homicides.

I-Law/Executive Power Internal

labelling of combatants as enemy combatants at bagram without tribunal defies international law and illegally expands presidential power

Worthington 2010 (Andy, Writer for the Public Record, “Bagram: Graveyard of the Geneva Convention”, <http://www.andyworthington.co.uk/2010/02/05/bagram-graveyard-of-the-geneva-conventions/> Waldman)

If there is any doubt about a wartime prisoner’s status — because he is not wearing a uniform, for example — he is entitled to an [Article 5 competent tribunal](http://www.icrc.org/IHL.nsf/52d68d14de6160e0c12563da005fdb1b/6fef854a3517b75ac125641e004a9e68!OpenDocument), held close to the time and place of capture, at which he can call witnesses. The US military pioneered these tribunals from Vietnam onwards, and was preparing to undertake them in December 2001, when the prisons at Kandahar and Bagram opened, until the orders came from on high that, in the “War on Terror,” they were unnecessary. In its extraordinary [arrogance and contempt for the law](http://www.andyworthington.co.uk/2009/05/27/guantanamo-and-the-many-failures-of-us-politicians/), the Bush administration decided that no screening was required, and that it was sufficient for the President to declare that, on capture, all the men were “enemy combatants,” who could be held indefinitely without any rights whatsoever. The purpose — as became apparent at Guantánamo, when President Bush declared that the Geneva Conventions did not extend to those held in the “War on Terror” — was not to keep men off the battlefield for the duration of hostilities, but to provide the lawless conditions in which they could be interrogated for “actionable intelligence.” The result, as has been chronicled as Guantánamo, at Bagram, at Abu Ghraib and in the secret prison network, was a torture regime, [purportedly sanctioned by memos](http://www.andyworthington.co.uk/2009/04/21/ten-terrible-truths-about-the-cia-torture-memos-part-one/) written by lawyers in the Justice Department’s Office of Legal Counsel, which claimed to redefine torture for the use by the CIA, or, in the case of the military, through “enhanced interrogation techniques” [approved by defense secretary Donald Rumsfeld](http://www.andyworthington.co.uk/2009/01/20/bush-era-ends-with-guantanamo-trial-chiefs-torture-confession/) for use at Guantánamo, which later migrated to Iraq.

I-Law Internal

the un delineates bagram as in clear violation of international humanitarian and human rights law

Khan 2010 (Badriya, Veteran Political Analyst for In Depth News “UN Asks U.S. To ‘Stop Secret Detention and Abuse’” <http://www.indepthnews.net/news/news.php?key1=2010-01-28%2000:23:02&key2=1> Waldman)

The UN has called on U.S. and other countries to put an end to their secret detention policies and human rights abuses in their so-called global war on terrorism. It has failed, however, to demand the immediate closure of two major U.S. “public” detention centres -- Guantanamo and Bagram, where human rights have been systematically violated, reaching the threshold of ‘crimes against humanity’. “Despite the fact that international law clearly prohibits secret detention, the practice is widespread and ‘reinvigorated’ by the so-called global war on terror,” said UN independent experts. In a 222-page study, to be presented to the UN Human Rights Council in March, the UN experts conclude, “secret detention is irreconcilably in violation of international human rights law including during states of emergency and armed conflict.” Though the study does not explicitly mention specific countries, it is clearly referring to the U.S. and its allies, mainly Western powers, which carried out and/or participated in this kind of prohibited practices. ‘CRIME AGAINST HUMANITY’ “Likewise, it is in violation of international humanitarian law during any form of armed conflict.” The study, elaborated by UN experts on counter-terrorism and torture, and the two UN expert bodies on arbitrary detention and enforced or involuntary disappearances, was announced on Jan 22. In it, the UN experts alert, “If resorted to in a widespread or systematic manner, secret detention might reach the threshold of a crime against humanity.” GUANTANAMO Though focussed on the secret detention centres, this last sentence (crime against humanity) describes properly the situation in the U.S. Guantanamo Bay detainment facility, located in Cuba.  This detention camp has been operated by Joint Task Force Guantanamo of the U.S. administration since 2002 on its Naval Base. The detainment areas consist of three camps: Camp Delta (which includes Camp Echo), Camp Iguana, and Camp X-Ray, the last of which has been closed.  After the U.S. Justice Department advised that the Guantanamo Bay Detention Camp could be considered outside U.S. legal jurisdiction, prisoners captured in Afghanistan were moved there beginning of 2002. The administration of previous White House occupant asserted that detainees were not entitled to any of the protections of the Geneva Conventions.  Therefore, the widely denounced detentions without charges and practices of torture against detainees have escaped all international human and legal laws and conventions. Since October 7, 2001, when the current war on Afghanistan began, 775 detainees have been brought to Guantanamo. Of these, some 420 have been released without charge. In January 2009, around 245 detainees remained. This number further decreased to 215 by November 2009. During his electoral campaign, President Barack Obama announced he would close Guantanamo detention camp by June 2009.  All that the current White House chief has done so far is to issue a Presidential Memorandum on December15, 2009 ordering the preparation of the Thomson Correctional Center, Thomson, Illinois so as to enable the transfer of Guantanamo prisoners there. BAGRAM The UN reference to “crime against humanity” would also properly apply to the case of another major U.S. “public” detention -- Bagram. Torture and homicides took place at the U.S. military detention centre, known as the Bagram Theater Internment Facility, situated near Afghan capital Kabul.

I-Law Internal

the us detention center at bagram has a plethora of i-law violations

Ally 2009 (Sahr Muhammed , Senior Associate in the Law and Security Program @ Human Rights First, “An examination of Detention and Trials of Bagram Detainees in April 2009” <http://www.humanrightsfirst.info/pdf/HRF-Undue-Process-Afghanistan-web.pdf> Waldman)

The United States, along with the Afghan government and NATO allies, is fighting insurgent groups in an armed conflict in Afghanistan. Detention is an essential element of armed conflict, although the legal framework for detention varies depending on whether the armed conflict is considered to be international or noninternational in character.128 But regardless of the source of legal authority for detention, there are applicable principles and standards of international law that provide the floor below which U.S. detention policies and practices must not fall. Current U.S. detention policies and practices do not meet these standards, and must be remedied. The international armed conflict between the United States and Afghanistan started on October 7, 2001, with U.S. air attacks on Afghanistan. On that date, the four Geneva Conventions of 1949 to which Afghanistan and the United States are party became applicable in their entirety, as did the residual body of customary international humanitarian law applicable to international armed conflict (IAC).129 Although international human rights law (IHRL) applies at all times to all armed conflicts,130 relatively few of its specific rules apply to the international armed conflict between two or more states. This is because IHL, as the lex specialis, contains detailed rules governing the use of force, the power to detain/right to challenge detention, and the trials and treatment of detainees in such conflicts. The international armed conflict between the United States and Afghanistan concluded with the inauguration of Hamid Karzai on June 19, 2002, following his election by an Afghan loya jirga, to the presidency of the transitional administration of Afghanistan.131 At this time, the hostilities involving international military forces and Afghan forces against the Taliban and al Qaeda became a non-international armed conflict (NIAC) governed by the IHL of NIAC, which is codified in Common Article 3 of the Geneva Conventions and Additional Protocol II.132 The ICRC has concluded that, since June 2002, the war in Afghanistan is a noninternational armed conflict.133 IHL applicable to international armed conflict authorizes internment of “combatants” to prevent their further participation in hostilities. Internment of “civilians” is authorized “only if the security of the Detaining Power makes it absolutely necessary.”134 IHL applicable to NIAC presumes that the parties can engage in detention, but the contours of that detention are shaped according to domestic law. This is because members of non-state armed groups in NIAC do not enjoy a privilege of belligerency; unlike combatants in an international armed conflict, their hostile acts can be designated as criminal under domestic law.135 Put another way, NIAC fighters are not entitled to PoW status or treatment; indeed, there is no such thing as PoW status in NIAC. In these situations, civilians who engage in hostilities can either be detained as security threats or criminally prosecuted for their hostile conduct under domestic law.136 In the context of the current non-international armed conflict in Afghanistan, the grounds on which such individuals may be detained, and the process to which they are entitled, must be established in law that sets forth relevant grounds and procedures. The ICRC has explicitly affirmed this requirement.137 Consistent with international law and with the U.S. strategy to progressively devolve responsibility for detentions to the Afghan government, these grounds and procedures should be addressed through Afghan legislation or if it suffices under the Afghan Constitution, a security agreement between the Afghan and U.S. governments. The grounds and procedures established must be consistent with international humanitarian law and the applicable standards of international human rights law, as outlined below. The implementation of such an agreement regularizing U.S. detention in this way would advance the credibility of U.S. military actions in the eyes of Afghans, thus supporting U.S. counterinsurgency goals in Afghanistan. The position of the United States on the legal character of the conflict in Afghanistan after the defeat of the Taliban government remains unclear. As discussed below, however, our recommendations for improvements in the legal framework and, in particular, the specific grounds for detention and procedures to challenge the legality of detention are also based on sound policy that reflects American values and interests, and will advance U.S. strategy in Afghanistan, regardless of the administration’s view on the legal character of the current conflict. In our view, the United States is obligated to take these steps.138 The Authorization for Use of Military Force is an insufficient basis under IHL for detention by the United States in Afghanistan.139 Passed by Congress in response to the 9/11 attacks, the AUMF authorizes the president to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001.”140 It does not mention detention and fails to provide procedures for detainees to challenge detention, as required under the IHL of NIAC.141 Moreover, the AUMF could no more provide a basis for detention by the U.S. in Afghanistan—especially now when the conflict is a noninternational one—than could an Afghan law authorize detention of Americans in the U.S. The ICRC has stated that “[p]ersons detained in relation to a non-international armed conflict waged as part of the fight against terrorism—as is the case in Afghanistan since June 2002—are protected by Article 3 common to the Geneva Conventions and the relevant rules of customary international humanitarian law. The rules of international human rights and domestic law also apply to them. If tried for any crimes they may have committed they are entitled to the fair trial guarantees of international humanitarian and human rights law.”142 Common Article 3 and Additional Protocol II do not provide procedural guidelines to govern reviews of detention in non-international armed conflicts. Thus it is necessary to refer to human rights law for guidance. The ICRC has similarly stated that Common Article 3 and Additional Protocol II “provide no further guidance on what procedure is to be applied in cases of internment . . .[thus] the gap must be filled by reference to applicable human rights law and domestic law, given that IHL rules applicable in non-international armed conflicts constitute a safety net that is supplemented by the provisions of these bodies of law.”143 The United States and Afghanistan are both party to the International Covenant of Civil and Political Rights (ICCPR), which prohibits arbitrary detention and mandates court review of any detention.144 Article 9(4) of the ICCPR states: “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.”145 Article 4 of the ICCPR does permit a state to derogate from its obligations under the Covenant in time of a “public emergency that threatens the life of the nation” and when it “is officially proclaimed.”146 But derogation is never permitted from certain rights, such as the right to life (article 6) and the right to be free from torture and other cruel, inhuman or degrading treatment (article 7).147 The U.N. Human Rights Committee has interpreted the right to challenge the lawfulness of detention (article 9) to be non-derogable as it is an essential safeguard against torture and other cruel, inhuman or degrading treatment.148 The ICRC has developed a set of principles and safeguards which “reflect the official position of the ICRC” governing security detention in armed conflict and situations of violence.149 The guidelines “are based on IHL, human rights treaties [such as the ICCPR], and human rights jurisprudence.” 150 According to the guidelines, detainees in non-international armed conflict must have the right: to challenge the lawfulness of their detention, have an independent and impartial body decide on continued detention or release, to notice of charges, to a legal representative, to attend hearings, to have contact with family members, and to have access to medical care. 151 Regardless of whether or not detention authority is deemed to be inherent in the law of war for NIAC, it is clear that the laws of war fail to articulate the permissible grounds and procedures for detention thereby warranting reference to human rights law. This is the situation now extant in Afghanistan and it must be remedied.

I-Law Internal- US Incorporation Spills Over

US incorporation of International Law allows for global protection of rights – makes US pressure credible and effective and there’s zero risk of a democracy deficit

**Ramji 1** Jaya, Visiting Fellow, Refugee Law Clinic, University of the Witwatersrand, Johannesburg, South Africa, LEGISLATING AWAY INTERNATIONAL LAW: THE REFUGEE PROVISIONS OF THE ILLEGAL IMMIGRATION REFORM AND IMMIGRANT RESPONSIBILITY ACT, 37 Stan. J Int'l L. 117

As a result of these distinctions, a breach of an international human rights treaty will have extremely different consequences than breach of a contract. While termination of a bilateral treaty only affects a relationship between two parties, breach of a multilateral human rights agreement can undermine the legitimacy  [\*152]  of the international legal regime. [n190](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277391980974&returnToKey=20_T9619794732&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.328590.1491620806" \l "n190) If a powerful nation such as the United States derogates from treaty-based standards, other nations may follow its example. This is compounded by the fact that the United States has not withdrawn from the international human rights treaties that the IIRIRA breaches; indeed, it remains a member of various treaties while failing to uphold its obligations as a state party. This hypocritical practice will diminish the credibility of the United States in the international arena and threaten its ability to discipline other states for breaches of human rights treaties. While the withdrawal of United States from important multilateral human rights treaties would also endanger the international legal regime, it would at least provide an honest reflection of U.S. refugee law to the rest of the world. Further, international pressure might then shame the United States into revising its domestic law to uphold its international legal obligations in the human rights realm.

I-Law Internal

lack of true military tribunals violates i-law- geneva convention

Worthington 2010 (Andy, Writer for the Public Record, “Is Bagram Obamas New Secret Prison”, <http://www.counterpunch.org/worthington09162009.html> Waldman)

This omission of screening on capture -- which has applied at Bagram ever since -- came about because, under instructions from the highest levels of government, the military was obliged to shelve its plans to hold competent tribunals under [Article 5 of the Geneva Conventions](http://www.unhchr.ch/html/menu3/b/91.htm), despite the fact that they had been pioneered by the U.S., and had been used successfully in every war from Vietnam onwards. Held close to the time and place of capture, these tribunals (as opposed to the CSRTs, which mockingly echoed them), comprise three military officers, and are designed to separate combatants from civilians seized in the fog of war, in cases where it is not obvious that prisoners are combatants (when they are not wearing a uniform, for example), by allowing the men in question to call witnesses. During the first Gulf War, around 1,200 of these tribunals were held, and in nearly three-quarters of the case, the men were found to have been wrongly detained, and were released. The [failure to implement these tribunals](http://www.andyworthington.co.uk/2009/05/27/guantanamo-and-the-many-failures-of-us-politicians/) in the “War on Terror” contributed enormously to the filling of Guantánamo with prisoners who had no connections to any form of militancy whatsoever, and these initial errors were not redressed when a skewed version of the tribunals -- the CSRT system -- was introduced two and half years later. As a result, plans to introduce Guantánamo-style tribunals to Bagram -- in which prisoners are assigned military representatives instead of lawyers, and may call witnesses and present evidence if “reasonably available” -- may be an improvement on the existing system of Unlawful Enemy Combatant Review Boards at Bagram -- in which the prisoners have no representation whatsoever, and are only allowed to make a statement before they hear the evidence against them -- but it fails to take into account the fact that non-uniformed prisoners seized in wartime, like those at Bagram, should, under the terms of the Geneva Conventions, be given competent tribunals on capture, and then, if found to be combatants, held unmolested until the end of hostilities. Despite being addressed in the DoD’s new proposals, these concerns are not mitigated by the fact that, according to these plans, new prisoners will be subjected, on capture, to cursory reviews by “the capturing unit commander” and by the commander of Bagram to ascertain that they “meet the criteria for detention,” and the problem is underlined by the DoD’s insistence that it is not merely holding prisoners “consistent with the laws and customs of war,” but also holding those who fulfill the criteria laid down in the[Authorization for Use of Military Force](http://news.findlaw.com/wp/docs/terrorism/sjres23.es.html) (the founding document of the “War on Terror,” approved by Congress within days of the 9/11 attacks), which authorized the President to detain those who “planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001,” or those who supported them.

I-Law Inevitable

International Law is inevitable but US engagement is critical to its effectiveness

**Institute for Energy and Environmental Research,** (and the Lawyers Committee on Nuclear Policy, **2002** (Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties, May, <http://www.ieer.org/reports/treaties/execsumm.pdf>)

The evolution of international law since World War II is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system offered by a treaty. However, influential U.S. policymakers are resistant to the idea of a treaty-based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical 27 implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments by the United States that can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. If the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance.

I-Law Impact- Environment

Supreme Court Incorporation key to Solve Environmental Destruction

Johnathan **Charney**, Board of Editors @ American Journal of Intl Law, Oct **1993**., 87 A.J.I.L. 529

The international community of the late twentieth century faces an expanding need to develop universal norms to address global concerns. Perhaps one of the most salient of these concerns is to protect the earth's environment. While many environmentally harmful activities result only in local damage, others have an impact far beyond the boundaries of the states in which they take place and may cause damage to the earth's environment as a whole. For example, the discharge of some substances into the atmosphere may adversely affect the global climate or the ozone layer. [n1](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277658146566&returnToKey=20_T9632817194&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.826112.1502358032" \l "n1) Discharges that pollute the common spaces of the oceans may also have a global impact and thus raise similar concerns. [n2](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277658146566&returnToKey=20_T9632817194&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.826112.1502358032#n2) Current threats to the environment highlight the importance of establishing norms to control activities that endanger all nations and peoples, regardless of where the activities take place. Acts of international terrorism, the commission of international crimes (such as genocide and war crimes), and the use of nuclear weapons pose similar global problems and have been on the international agenda for some time. To resolve such problems, it may be necessary to establish new rules that are binding on all subjects of international law regardless of the attitude of any particular state. For unless all states are bound, an exempted recalcitrant state could act as a spoiler for the entire international community. Thus, states that are not bound by international laws designed to combat universal environmental threats  [\*530]  could become havens for the harmful activities concerned. Such states might have an economic advantage over states that are bound because they would not have to bear the costs of the requisite environmental protection. They would be free riders on the system and would benefit from the environmentally protective measures introduced by others at some cost. Furthermore, the example of such free riders might undermine the system by encouraging other states not to participate, and could thus derail the entire effort. Similarly, in the case of international terrorism, one state that serves as a safe haven for terrorists can threaten all. War crimes, apartheid or genocide committed in one state might threaten international peace and security worldwide. Consequently, for certain circumstances it may be incumbent on the international community to establish international law that is binding on all states regardless of any one state's disposition. Unfortunately, the traditions of the international legal system appear to work against the ability to legislate universal norms. States are said to be sovereign, thus able to determine for themselves what they must or may do. [n3](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277658146566&returnToKey=20_T9632817194&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.826112.1502358032#n3) State autonomy continues to serve the international system well in traditional spheres of international relations. The freedom of states to control their own destinies and policies has substantial value: it permits diversity and the choice by each state of its own social priorities. [n4](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277658146566&returnToKey=20_T9632817194&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.826112.1502358032#n4) Few, if any, states favor a world government that would dictate uniform behavior for all. Consequently, many writers use the language of autonomy when they declare that international law requires the consent of the states that are governed by it. Many take the position that a state that does not wish to be bound by a new rule of international law may object to it and be exempted from its application. [n5](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277658146566&returnToKey=20_T9632817194&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.826112.1502358032#n5) If sovereignty and autonomy prevailed in all areas of international law, however, one could hardly hope to develop rules to bind all states. In a community of nearly two hundred diverse states, it is virtually impossible to obtain the acceptance of all to any norm, particularly one that requires significant expenses or changes in behavior. Complete autonomy may have been acceptable in the past when no state could take actions that would threaten the international community as a whole. Today, the enormous destructive potential of some activities and the precarious condition of some objects of international concern make full autonomy undesirable, if not potentially catastrophic.  [\*531]  In this article I explore the limits of state autonomy to determine whether some or all of international law may be made universally binding regardless of the position of one or a small number of unwilling states. To accomplish this objective, I begin by analyzing the secondary rules of recognition (the doctrine of sources) used to establish primary rules of international law. While treaties may require the consent of individual states to be binding on them, such consent is not required for customary norms. Finally, I explore in greater depth the actual processes by which many customary law norms have come into being in the last half of the twentieth century. The contemporary process that is often used is significantly different from that described in the classic treatises on the formation of customary law. Contemporary procedural developments place the international legal system closer to the more formal notions of positive law, facilitating the development of universal international law. These procedural developments strengthen the argument that the system may establish general international law binding on all states, regardless of the objection of a small number of states.

I-Law Impact

International law incorporation key to democracy

Benvenisti 8 Eyal, Professor of Law, Tel Aviv University, RECLAIMING DEMOCRACY: THE STRATEGIC USES OF FOREIGN AND INTERNATIONAL LAW BY NATIONAL COURTS, 102 A.J.I.L. 241

Not so long ago the overwhelming majority of courts in democratic countries shared a reluctance to refer to foreign and international law. Their policy was to avoid any application of foreign sources of law that would clash with the position of their domestic governments. Many jurists find recourse to foreign and international law inappropriate. (1) But even the supporters of reference to external sources of law hold this unexplored assumption that reliance on foreign and international law inevitably comes into tension with the value of national sovereignty. Hence, the scholarly debate is framed along the lines of the well-known broader debate on "the countermajoritarian difficulty." (2) This article questions this assumption of tension. It argues that for courts in most democratic countries--even if not for U.S. courts at present--referring to foreign and international law has become an effective instrument for empowering the domestic democratic processes by shielding them from external economic, political, and even legal pressures. Citing international law therefore actually bolsters domestic democratic processes and reclaims national sovereignty from the diverse forces of globalization. Stated differently, most national courts, seeking to maintain the vitality of their national political institutions and to safeguard their own domestic status vis-a-vis the political branches, cannot afford to ignore foreign and international law.

Global democratic consolidation prevents many scenarios for war and extinction

Diamond 95 Larry Diamond, senior fellow at the Hoover Institution, December 1995, Promoting Democracy in the 1990s, <http://wwics.si.edu/subsites/ccpdc/pubs/di/1.htm>

This hardly exhausts the lists of threats to our security and well-being in the coming years and decades. In the former Yugoslavia nationalist aggression tears at the stability of Europe and could easily spread. The flow of illegal drugs intensifies through increasingly powerful international crime syndicates that have made common cause with authoritarian regimes and have utterly corrupted the institutions of tenuous, democratic ones. Nuclear, chemical, and biological weapons continue to proliferate. The very source of life on Earth, the global ecosystem, appears increasingly endangered. Most of these new and unconventional threats to security are associated with or aggravated by the weakness or absence of democrac**y**, with its provisions for legality, accountability, popular sovereignty, and openness. LESSONS OF THE TWENTIETH CENTURY The experience of this century offers important lessons. Countries that govern themselves in a truly democratic fashion do not go to war with one another. They do not aggress against their neighbors to aggrandize themselves or glorify their leaders. Democratic governments do not ethnically "cleanse" their own populations, and they are much less likely to face ethnic insurgency. Democracies do not sponsor terrorism against one another. They do not build weapons of mass destruction to use on or to threaten one another. Democratic countries form more reliable, open, and enduring trading partnerships. In the long run they offer better and more stable climates for investment. They are more environmentally responsible because they must answer to their own citizens, who organize to protest the destruction of their environments. They are better bets to honor international treaties since they value legal obligations and because their openness makes it much more difficult to breach agreements in secret. Precisely because, within their own borders, they respect competition, civil liberties, property rights, and the rule of law, democracies are the only reliable foundation on which a new world order of international security and prosperity can be built.

I-Law Impact (Democracy Scenario)

Democracy acts as a backstop against all of their impacts – no democratically elected leader will allow policy disasters

**McGinnis and Somin 7** John and Ilya, Professor of Law @ NU and Georgetown Respectively, Should International Law Be Part of Our Law?, Stanford Law Review, Questia Waldman

Finally, democratic accountability also plays a crucial role in preventing major public policy disasters, since elected leaders know that a highly visible catastrophic failure is likely to lead to punishment at the polls. For example, it is striking that no democratic nation, no matter how poor, has ever had a mass famine within its borders,96 whereas such events are common in authoritarian and totalitarian states.97 More generally, democracy serves as a check on selfdealing by political elites and helps ensure, at least to some extent, that leaders enact policies that serve the interests of their people.

I-Law Impact- Taiwan Straight(1/2)

Strong International Human Rights Law solves unnecessary deaths in forward deployed US forces

**Ratner 3** Steven, Professor of Law @ UT, SYMPOSIUM: PRECOMMITMENT THEORY IN BIOETHICS AND CONSTITUTIONAL LAW: CONSTITUTIONAL AND INTERNATIONAL LAW: Precommitment Theory and International Law: Starting a Conversation, 81 Tex. L. Rev. 2055, Lexis Waldman

The first category above describes states that sign human rights treaties with little concern for human rights, but in order to gain advantages from other states. (Certainly, this explains the large number of states that are parties to the ICCPR but, nonetheless, have terrible human rights records.)n57 This posture of states may not be undesirable overall for the protection of human rights, as outside actors can then embarrass these states into complying with their obligations; but it is not, as noted, a true  [\*2071]  precommitment strategy.n58 One subcategory within this group are states entering into human rights treaties as part of a deal that provides them some other, non-human-rights benefit. Thus, states in Central and Eastern Europe joined the European Convention on Human Rights because (at least in part) the European Union made such membership a requirement for EU admission. n59vThe second category above - reciprocity as the purpose for commitment - applies to many states adhering to humanitarian law treaties. States in the humanitarian law area sign such treaties to help ensure that other states will respect humanitarian norms in conflicts against the former group. Thus, the United States has the strongest interest in a robust humanitarian law because it is most likely to deploy forces abroad. (Similar motivations drive states to sign treaties on diplomatic and consular relations, which protect their diplomats and citizens from mistreatment by other states.)n60 The reciprocity purpose does not explain a state's decision to join human rights treaties, however, because the principal beneficiaries of these agreements are a state's own citizens, not other states.

US casualties doom public support for the military - this influences other countries’ perception of U.S. credibility, and triggers a Chinese attack on Taiwan

**Eichenberg in 5** Richard C, Associate Professor in the Department of Political Science at Tufts University, International Security, Victory has Many Friends: U.S. Public Opinion and the Use of Military Force, 1981-2005, Project Muse

The second reason to reevaluate the sensitivity of the public to casualties is that decisionmakers in other countries have apparently come to believe that the American public will not tolerate the loss of life in foreign military interventions, a fact that obviously affects their calculations of U.S. credibility. Three studies of the failure (or potential failure) of deterrence or coercive diplomacy are strikingly similar on this point. Janet Gross Stein argues that the inability to deter Saddam Hussein from invading Kuwait in 1990 can be traced in part to Hussein’s “estimate that the United States, given its aversion to high numbers of casualties, might not retaliate for the invasion of Kuwait with large-scale military force.”30 Barry Posen notes that in the Kosovo war, the Serbian strategy of threatening to inºict pain on more powerful adversaries in fact worked: the United States and NATO essentially declared that they would not accept the costs of a ground attack, and in the event they could not coerce Serbia into signing the Rambouillet agreement with the threat of air strikes alone.31 The result was a near disaster. Finally, Thomas Christensen argues that one important factor that may impel the People’s Republic of China to challenge U.S. power in the Far East (perhaps over Taiwan) is the belief among the Chinese elite that the United States would not accept the casualties that might occur in such a conºict. Christensen reached this conclusion based on interviews conducted before the terrorist attacks against the United States on September 11, 2001; but given the erosion of public support as casualties have mounted in Iraq, one wonders if views in Beijing have changed.32

I-Law Impact- Taiwan Straight(2/2)

Extinction

**Straits Times 2k** Ching Cheong, “No One Gains in War Over Taiwan”, June 25, Lexis Nexis

THE high-intensity scenario postulates a cross-strait war escalating into a full-scale war between the US and China. If Washington were to conclude that splitting China would better serve its national interests, then a full-scale war becomes unavoidable. Conflict on such a scale would embroil other countries far and near and -- horror of horrors -- raise the possibility of a nuclear war. Beijing has already told the US and Japan privately that it considers any country providing bases and logistics support to any US forces attacking China as belligerent parties open to its retaliation. In the region, this means South Korea, Japan, the Philippines and, to a lesser extent, Singapore. If China were to retaliate, east Asia will be set on fire. And the conflagration may not end there as opportunistic powers elsewhere may try to overturn the existing world order. With the US distracted, Russia may seek to redefine Europe's political landscape. The balance of power in the Middle East may be similarly upset by the likes of Iraq. In south Asia, hostilities between India and Pakistan, each armed with its own nuclear arsenal, could enter a new and dangerous phase. Will a full-scale Sino-US war lead to a nuclear war? According to General Matthew Ridgeway, commander of the US Eighth Army which fought against the Chinese in the Korean War, the US had at the time thought of using nuclear weapons against China to save the US from military defeat. In his book The Korean War, a personal account of the military and political aspects of the conflict and its implications on future US foreign policy, Gen Ridgeway said that US was confronted with two choices in Korea -- truce or a broadened war, which could have led to the use of nuclear weapons. If the US had to resort to nuclear weaponry to defeat China long before the latter acquired a similar capability, there is little hope of winning a war against China 50 years later, short of using nuclear weapons. The US estimates that China possesses about 20 nuclear warheads that can destroy major American cities. Beijing also seems prepared to go for the nuclear option. A Chinese military officer disclosed recently that Beijing was considering a review of its "non first use" principle regarding nuclear weapons. Major-General Pan Zhangqiang, president of the military-funded Institute for Strategic Studies, told a gathering at the Woodrow Wilson International Centre for Scholars in Washington that although the government still abided by that principle, there were strong pressures from the military to drop it. He said military leaders considered the use of nuclear weapons mandatory if the country risked dismemberment as a result of foreign intervention. Gen Ridgeway said that should that come to pass, we would see the destruction of civilization. There would be no victors in such a war. While the prospect of a nuclear Armageddon over Taiwan might seem inconceivable, it cannot be ruled out entirely, for China puts sovereignty above everything else.

I-Law Impact- Heg

Incorporating international law is the most important internal link to U.S. leadership.

Kenneth **Roth** Executive Director, Human Rights Watch 2K. 2000 The University of Chicago Chicago Journal of International Law Fall, **2000** 1 Chi. J. Int'l L. 347 Waldman

This "know-nothingism" does not stand up to scrutiny. For example, Article 6(1) of the ICCPR prohibits the arbitrary deprivation of life. Any honest assessment of whether the death penalty as applied in the United States violates this standard would benefit from considering the powerful and sophisticated arguments of the South African Constitutional Court finding the death penalty in violation of South Africa's new constitution. [n11](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277584640523&returnToKey=20_T9631345262&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.198188.1128310561" \l "n11) Why should the global marketplace of ideas, so vigorously upheld by Washington in other contexts, be judged irrelevant when it comes to rights protection? Of course, a US litigant could present the South African court's rationale even under current law as persuasive authority. But under existing US law, US judges are unlikely to pay much attention to these precedents because they are given no formal relevance to the interpretation of US rights protections. By contrast, a system in which claims could be stated under the ICCPR would invite consideration of these global precedents. A US judge might still decide not to follow a particular ruling by a foreign court or UN committee, but the process would at least have been enriched by his or her consideration of it. Washington's cynical attitude toward international human rights law has begun to weaken the US government's voice as an advocate for human rights around the  [\*353]  world. Increasingly at UN human rights gatherings, other governments privately criticize Washington's "a la carte" approach to human rights. They see this approach reflected not only in the US government's narrow formula for ratifying human rights treaties but also in its refusal to join the recent treaty banning anti-personnel landmines and its opposition to the treaty establishing the International Criminal Court unless a mechanism can be found to exempt US citizens. For example, at the March-April 2000 session of the UN Commission on Human Rights, many governments privately cited Washington's inconsistent interest in international human rights standards to explain their lukewarm response to a US-sponsored resolution criticizing China's deteriorating human rights record. The US government should be concerned with its diminishing stature as a standard-bearer for human rights. US influence is built not solely on its military and economic power. At a time when US administrations seem preoccupied with avoiding any American casualties, the projection of US military power is not easy. US economic power, for its part, can engender as much resentment as influence. Much of why people worldwide admire the United States is because of the moral example it sets. That allure risks being tarnished if the US government is understood to believe that international human rights standards are only for other people, not for US citizens.

I-Law Impact-Prolif

U.S. incorporation of i-law solves prolif.

**IEER ‘2** Institute for Energy and Environmental Research, May 2002 (Rule of Power or Rule of Law) <http://www.lcnp.org/pubs/RuleofLawPDF.pdf> Waldman

Treaties by their very nature involve some sacrifice of sovereignty for the sake of the common good. Moreover, powerful countries usually exercise great influence on the shape of treaties, and that has been generally true of the United States in relation to the security treaties discussed in this report. And treaty regimes contribute to national and global security in important ways, including by: • articulating global norms; • promoting and recognizing compliance with norms; • building monitoring and enforcement mechanisms; • increasing the likelihood of detecting violations and effectively addressing them; • providing a benchmark for measurement of progress; • establishing a foundation of confidence, trust, experience, and expertise for further progress; • providing criteria to guide states’ activities and legislation, and focal points for discussion of policy issues. Over the long term, treaty regimes are a far more reliable basis for achieving global policy objectives and compliance with norms than “do as we say, not as we do” directives from an overwhelmingly powerful state. The concept of the rule of law was integral to the founding of the United States, which has been one of its staunchest advocates. The rule of law in international affairs is still emerging, evolving quickly as global forces drive countries closer together. Its development is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. The people of the United States are part of this global society and failures at the global level will affect their security and well-being adversely, along with that of people elsewhere. The importance and weight of the United States makes a U.S. withdrawal from the global legal process except when its gets its own way a dangerous course for security as well as the environment.

I-Law Impact- Free Trade

A. Implementation Legislation key to commercial trade agreements

**Bradley** Prof Law @ UC ‘**98**[Curtis S. Associate Professor of Law @ Univ. of Colorado. "The Treaty Power and American Federalism" 97 Mich. L. Rev. 390. November Waldman]

Commercial and other private law treaties also have the potential to intrude on traditional state prerogatives. As one commentator recently explained, "at issue in the ratification process ... is nothing less than federal arrogation of traditional state competence in the law governing private, and in particular commercial, relations." [n83](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n83) The United States already is a party to the Convention on Contracts for the International Sale of Goods. [n84](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n84) This Convention governs the sale of goods in a variety of international contract situations, although contracting parties are allowed to opt out of its provisions. [n85](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n85) In this country, the Convention is considered a self- executing treaty, and thus, when it applies, it preempts inconsistent state law, including the Uniform Commercial Code. [n86](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n86) Another sector of private law that may become the subject of a treaty is the enforcement of judgments. A number of countries, including the United States, currently are negotiating a proposed multilateral treaty, in connection with The Hague Conference on Private International Law, that would establish uniform standards for the recognition and enforcement of foreign judgments. [n87](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n87) This is a subject that has been regulated in this country primarily by the states, [n88](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n88) and commentators expressed concern as late as the 1950s that a treaty on this subject might exceed federal power. [n89](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n89) A simi [\*407]  lar example is the Convention on the Law Applicable to Succession to the Estates of Deceased Persons, [n90](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n90) which would establish choice of law rules concerning inheritance issues. This "Convention would seem to change hallowed rules of U.S. state law without the scrutiny that such a change would get in a state legislature." [n91](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585511382&returnToKey=20_T9631363799&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.207313.8231869548" \l "n91)

I-Law Impact- Amazon(1/2)

A. I-Law incorporation permits regulation of TNC’s destroying Amazon.

**Geer** Prof Law @ UB ‘**98** [Martin, Associate Professor of Law, Director of Clinical Education, University of Baltimore School of Law, Spring, 38 Va. J. Int'l L. 331 Waldman]

This Article contends that customary international law may provide indigenous peoples the most viable jurisprudential route for protection from extinction. Customary international law "results from a general and consistent practice of states followed  [\*358]  by them from a sense of legal obligation." [n99](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n99) U.S. courts, in determining customary international law, review a variety of sources: What the law of nations on this subject is, may be ascertained by consulting the work of jurists, writing professedly on public law, or by the general usage and practice of nations, or by judicial decisions recognising and enforcing that law. [n100](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n100) The Restatement (Third) of the Foreign Relations Law of the United States defines the customary international law of human rights. A state violates international law if, as a matter of state policy, it practices, encourages, or condones (a) genocide, (b) slavery or slave trade, (c) the murder or causing the disappearance of individuals, (d) torture or other cruel, inhuman, or degrading treatment or punishment, (e) prolonged arbitrary detention, (f) systematic racial discrimination, or (g) a consistent pattern of gross violations of internationally recognized human rights. [n101](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n101) Under current federal common law jurisprudence, U.S. courts also look to international conventions, agreements, and declarations of bodies such as the United Nations and the OAS, in addition to domestic judicial precedent. [n102](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n102)  [\*359]  The following sub-parts of the Article review the various documents, decisions, and scholarly writings that may serve to help protect the indigenous peoples' group and culturalland rights at risk in Amazonia.

B. TNCs are threatening cultural diversity and the Amazon rainforest

**Geer** Prof Law @ UB ‘**98** [Martin, Associate Professor of Law, Director of Clinical Education, University of Baltimore School of Law, Spring, 38 Va. J. Int'l L. 331 Waldman]

Unique and vital components of human culture and the environment are struggling for survival in the Amazon River basin. The rain forest of Amazonia [n3](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n3) is shared by indigenous peoples and an immensely diverse tropical flora and fauna. This unique cultural and physical ecology, however, is threatened by transnational oil corporations which are irreparably devastating Amazonia and its native cultures through oil production activities. [n4](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n4)

I-Law Impact- Amazon(2/2)

C. Destruction of the Amazon undermines global biodiversity and risks global extinction

**AIRR 2K** Amazon International Rainforest Reserve 00 ["The Amazon Stands As A Wonderous Testimony To Its Glorious Creator," [www.amazonrainforest.org/community/articles/article2.asp](http://www.amazonrainforest.org/community/articles/article2.asp) Waldman]

The Amazon Rainforest, the largest and richest ecosystem on earth, has stood inviolate for thousands if not milions of years since its creation. The profusion and variety of life forms present in the rainforest and its critical role in supplying the world with air has resulted in its being called the "Heart and Lungs" of the planet. Indeed, the majority of the world's oxygen is supplied by its dense foliage and teeming plant life which upon first inspection, seems boundless and industructible.

A recent study by the Smithsonian Institute indicates that about 90% of all the plant and animal species existant in the world today reside in the Amazon Rainforst and depend upon its complex ecology. Unlike the forests of temperate zones that are populated by stands of a single or double species of tree, the tropical rainforest will in a two and half acre plot harbor as many as 283 tree species. With certain trees growing to a height of 150 ft. or more, the rainforest is mulitleveled with an emergent tree level, upper and lower canopy and understory. Each level harbors a particular constellation of plant and animal life. Human beings have only begun to catalog and name the creatures that live here. Home to thousands of varieties of flowering plants, the rainforest supports endless varieties of hummingbirds, butterflies and insects such as the rhinocerous beetle and the army ant. It is also home to the spider monkey, pink and gray dolphins, Amazon river otter, piranha, anaconda, jaguar, blue and yellow macaw, toucan, harpy eagle, fishing bat, tapir sloth, tarantula, caymen crocidile, manatee, etc. In addition to serving as the "Heart and Lungs" of the planet, the Amazon Rainforest constitutes the world's largest "pharmacy" yielding thousands of previously unknown substances found no where else. Compounds from tropical flora relieve headaches, help treat glaucoma and provide muscle relaxants used during surgery. The Amazon Rainforest has also yielded quinine for the treatment of malaria and periwinkle for the treatment of leukemia. Given the rainforest's teeming biological diversity, its value to humanity as a laboratory of natural phenomena and as a medical storehouse is priceless. Conversely, if the rainforest disappears, researchers fear that plants with wonder-drug potential will be lost forever. In addition to these functions, the Amazon Rainforest attracts huge volumes of precipitation from the Atlantic ocean, releasing it in endless cycles of rain and tropical downpours that give the rainforest its name. Averaging from 80 to 120 inches annually, the Amazon Rainforest channels and provides drainage for the Amazon River, the world's largest river and source of 25% of the world's fresh water supply. Moreover, the rainforest is home to some one hundred thousand Indian people, the remnant of innumerable tribes which have held out against the ravages of five hundred years of conquest and colonization by Europeans. Since Europeans first appeared in Brazil, nearly 90% of Amazonian Indian people have disappeared. In the last ten years alone, the Yanomani Indian homeland has been reduced by government decree from 36,000 to 800 square miles in response to an invasion of 45,000 gold prospectors into their territory. When the invasion began, there were about 9000 Yanomani. Today they are dying in large numbers from tuberculosis, hepatitis, malaria and venereal disease. Like the rainforest itself, its indigenous inhabitants offer something unique to the world, for they are the repository of an ancient, intimate and all encompassing understanding of the natural world of which they are a part. With the loss of the rainforest and its original inhabitants, humankind loses a unique and valuable organ for knowing itself and its ecosystems. As an example, the Yanomani, the largest group of unassimilated Indians in Brazil, speak a language unrelated to any other spoken in the Amazon basin or anywhere else on earth. Their world view is synonymous with the Rainforest itself. As the greatest repository of nature's treasures and most significant source of air, the Amazon Rainforest is crucial to the survival of all life on the planet and to human beings' understanding of their place in the web of life. In the words of Guatama Buddha, "The forest is a peculiar organism of unlimited kindness and benevolence that makes no demands for its sustenance and extends generously, the products of its like and activity. It affords protection to all living beings."

I-Law Impact- Genocide

Customary international law key to prevent genocide

**Geer** Prof Law @ UB ‘**98** [Martin, Associate Professor of Law, Director of Clinical Education, University of Baltimore School of Law, Spring, 38 Va. J. Int'l L. 331 Waldman]

In addition to the above conventions, modern history strongly supports the position that genocide is a matter of universal concern and jurisdiction. [n111](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n111) The post-World War II actions of the international community concerning activities in Bosnia, Rwanda, Cambodia, Iraq, Iran, Vietnam, [n112](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n112) and the United States [n113](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n113) demonstrate the international acceptance of the concept of genocide, including the Genocide Convention's "intent to destroy" standard, [n114](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277585910877&returnToKey=20_T9631374725&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.489495.9352336371" \l "n114) as customary international law. Genocide is one of the few human rights violations that has reached universal jurisdiction or jus cogens status.

I-Law Impact- Nuclear War

The only alternative to international law is genocide and nuclear war.

**Shaw 01** [10/3/01 Martin Shaw Professor of International Relations and Politics at the University of Sussex. “The unfinished global revolution: intellectuals and the new politics of international relations” <http://www.martinshaw.org/unfinished.pdf> Waldman]

The new politics of international relations require us, therefore, to go beyond the anti-imperialism of the intellectual left as well as of the semi-anarchist traditions of the academic discipline. We need to recognise three fundamental truths. First, in the twenty-first century people struggling for democratic liberties across the non-Western world are likely to make constant demands on our solidarity. Courageous academics, students and other intellectuals will be in the forefront of these movements. They deserve the unstinting support of intellectuals in the West. Second, the old international thinking in which democratic movements are seen as purely internal to states no longer carries conviction – despite the lingering nostalgia for it on both the American right and the anti-American left. The idea that global principles can and should be enforced worldwide is firmly established in the minds of hundreds of millions of people. This consciousness will a powerful force in the coming decades. Third, global state-formation is a fact. International institutions are being extended, and (like it or not) they have a symbiotic relation with the major centre of state power, the increasingly internationalised Western conglomerate. The success of the global-democratic revolutionary wave depends first on how well it is consolidated in each national context – but second, on how thoroughly it is embedded in international networks of power, at the centre of which, inescapably, is the West. From these political fundamentals, strategic propositions can be derived. First, democratic movements cannot regard non-governmental organisations and civil society as ends in themselves. They must aim to civilise local states, rendering them open, accountable and pluralistic, and curtail the arbitrary and violent exercise of power. Second, democratising local states is not a separate task from integrating them into global and often Western-centred networks. Reproducing isolated local centres of power carries with it classic dangers of states as centres of war.84 Embedding global norms and integrating new state centres with global institutional frameworks are essential to the control of violence. (To put this another way: the proliferation of purely national democracies is not a recipe for peace.) Third, while the global revolution cannot do without the West and the UN, neither can it rely on them unconditionally. We need these power networks, but we need to tame them too, to make their messy bureaucracies enormously more accountable and sensitive to the needs of society worldwide. This will involve the kind of ‘cosmopolitan democracy’ argued for by David Held85. It will also require us to advance a global *social*-democratic agenda, to address the literally catastrophic scale of world social inequalities. This is not a separate problem: social and economic reform is an essential ingredient of alternatives to warlike and genocidal power; these feed off and reinforce corrupt and criminal political economies. Fourth, if we need the global-Western state, if we want to democratise it and make its institutions friendlier to global peace and justice, we cannot be indifferent to its strategic debates. It matters to develop international political interventions, legal institutions and robust peacekeeping as strategic alternatives to bombing our way through zones of crisis. It matters that international intervention supports pluralist structures, rather than ratifying Bosnia-style apartheid.86 As political intellectuals in the West, we need to have our eyes on the ball at our feet, but we also need to raise them to the horizon. We need to grasp the historic drama that is transforming worldwide relationships between people and state, as well as between state and state. We need to think about how the turbulence of the global revolution can be consolidated in democratic, pluralist, international networks of both social relations and state authority. We cannot be simply optimistic about this prospect. Sadly, it will require repeated violent political crises to push Western and other governments towards the required restructuring of world institutions.87 What I have outlined is a huge challenge; but the alternative is to see the global revolution splutter into partial defeat, or degenerate into new genocidal wars - perhaps even nuclear conflicts. The practical challenge for all concerned citizens, and the theoretical and analytical challenges for students of international relations and politics, are intertwined.

I-Law Impact- Soft Power(1/2)

A. Refusal to abide by International Human Rights Law hurts US credibility, leadership, and soft power, resulting in global genocides.

**Koh**, prof law Yale, **’03** (Harold Hongju Koh, Professor of International Law at Yale Law School. May 03. “Foreword: On American Exceptionalism.” Lexis Waldman)

For now, we should recognize at least four problems with double standards. The first is that, when the United States promotes double standards, it invariably ends up not on the higher rung, but on the lower rung with horrid bedfellows - for example, with such countries as Iran, Nigeria, and Saudi  [\*1487]  Arabia, the only other countries that have not in practice either abolished or declared a moratorium upon the imposition of the death penalty on juvenile offenders. [n28](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277587526999&returnToKey=20_T9631409351&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.76694.46438200667" \l "n28) This appearance of hypocrisy undercuts America's ability to pursue an affirmative human rights agenda. Worse yet, by espousing the double standard, the United States often finds itself co-opted into either condoning or defending other countries' human rights abuses, even when it previously criticized them (as has happened, for example, with the United States critique of military tribunals in Peru, Russia's war on Chechen "terrorists," or China's crackdown on Uighur Muslims). [n29](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277587526999&returnToKey=20_T9631409351&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.76694.46438200667" \l "n29) Third, the perception that the United States applies one standard to the world and another to itself sharply weakens America's claim to lead globally through moral authority. This diminishes U.S. power to persuade through principle, a critical element of American "soft power." Fourth, and perhaps most important, by opposing the global rules, the United States can end up undermining the legitimacy of the rules themselves, not just modifying them to suit America's purposes. The irony, of course, is that, by doing so, the United States disempowers itself from invoking those rules, at precisely the moment when it needs those rules to serve its own national purposes. [n30](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277587526999&returnToKey=20_T9631409351&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.76694.46438200667" \l "n30) II. The Overlooked Face of American Exceptionalism Having focused until now on the negative faces of American exceptionalism, I must address a fifth, much-overlooked dimension in which the United States is genuinely exceptional in international affairs. Looking only at the half-empty part of the glass, I would argue, obscures the most important respect in which the United States has been genuinely exceptional, with regard to international affairs, international law, and promotion of human rights: namely, in its exceptional global leadership and activism. To this day, the United States remains the only superpower capable, and at times willing, to commit real resources and make real sacrifices to build, sustain, and drive an international system committed to international law, democracy, and the promotion of human rights. Experience teaches that when the United States leads on human rights, from Nuremberg to Kosovo, other countries follow.  [\*1488]  When the United States does not lead, often nothing happens, or worse yet, as in Rwanda and Bosnia, disasters occur because the United States does not get involved.

B. Soft Power key to solving every major impact including proliferation

**Stanley**, Prof at Georgetown, **07** (Elizabeth Stanley, PhD in Government From Harvard University, Assistant Professor at George Town University, Member of the National Security Advisement Board of Sandia National Laboratories, “International perceptions of U.S. Nuclear Policy” <http://www.prod.sandia.gov/> cgi-bin/techlib/access- control.pl/2007/070903.pdf) Waldman

Such reputation effects can have significant impact in terms of gaining international cooperation in addressing global issues that require multilateral solutions – and given the interdependent nature of the world today, most issues fall into this category. In contrast to a state’s “hard power” (military and economic might), “soft power” (a state’s culture, values and institutions) provides an indirect way to influence others. Soft power is an invaluable asset to: (1) keep potential adversaries from gaining international support and winning moderates over to their causes; (2) influence neutral and developing states to support US leadership; and, (3) convince allies to support and share the international security burden. The United States needs soft power assets (including “the moral high ground”) to solve these problems multilaterally and proactively. For example, one of the “wicked problems” (problems having complex, adaptive, unpredictable components) that US nuclear policy and posture is trying to address is global proliferation of WMD. Yet, WMD proliferation is not a problem that the United States can address effectively alone. To address global proliferation concerns, the United States needs the rest of the world to participate in the process. Given how complex the WMD proliferation problem is, this requires not only other international actors to commit to solving the “problem” with us but that they have a similar understanding of what the “problem” *is*. This common problem definition is not possible when the rest of the world has negative perceptions of the United States,

I-Law Impact- Soft Power (2/2)

c. Extinction

Victor Utgoff, Deputy Director of the Strategy, Forces, and Resources Division of the Institute for Defense Analysis, Survival, Fall,2002, p. 87-90 Waldman

In sum, widespread proliferation is likely to lead to an occasional shoot-out with nuclear weapons, and that such shoot-outs will have a substantial probability of escalating to the maximum destruction possible with the weapons at hand. Unless nuclear proliferation is stopped, we are headed toward a world that will mirror the American Wild West of the late 1800s. With most, if not all, nations wearing nuclear 'six-shooters' on their hips, the world may even be a more polite place than it is today, but every once in a while we will all gather on a hill to bury the bodies of dead cities or even whole nations.

I-Law Impact- Marine Ecosystems

Customary international law supports the protection of marine environment

**Hafetz 00** [Jonathan, Law Clerk to the Honorable Jed S. Rakoff, Southern District of New York, 15 Am. U. Int'l L. Rev. 583]

The Law of the Sea Convention represents an important development in the environmental law of the sea. [n50](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277588403806&returnToKey=20_T9631430208&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.195007.69157406205#n50) Negotiations for the Convention began at the Third United Nations Conference on the Law of the Sea in 1972, the same year in which the Stockholm Conference on the Human Environment was held. [n51](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277588403806&returnToKey=20_T9631430208&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.195007.69157406205" \l "n51) As the first United Nations conference to address environmental issues, [n52](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277588403806&returnToKey=20_T9631430208&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.195007.69157406205" \l "n52) the Stockholm Conference considered many global environment problems. Although the Stockholm Conference ultimately opted for a non-binding declaration of principles, the Stockholm Declaration, particularly Principle 121's establishment of State responsibility for transboundary international harm, is generally regarded as customary international law. [n53](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277588403806&returnToKey=20_T9631430208&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.195007.69157406205" \l "n53) The Conference's results were immediately  [\*596]  placed before the Third United Nations Conference on the Law of the Sea when it met in 1971, assuring the Conference's focus on environmental issues. [n54](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277588403806&returnToKey=20_T9631430208&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.195007.69157406205" \l "n54) In the end, UNCLOS III went beyond the Stockholm Conference by providing a comprehensive framework for protecting and preserving the marine environment. Its environmental focus, evident in numerous provisions and in the treaty's overall structure, supports an interpretation of Article 121(3) that simultaneously protects the environment and brings an economic benefit to the nations or people involved.

Collapse of ocean ecosystems ends life on Earth

**Craig** Prof Law @ Indiana ‘**3** (Robin Kundis, Associate Prof Law, Indiana U School Law, Lexis)

Biodiversity and ecosystem function arguments for conserving marine ecosystems also exist, just as they do for terrestrial ecosystems, but these arguments have thus far rarely been raised in political debates. For example, besides significant tourism values - the most economically valuable ecosystem service coral reefs provide, worldwide - coral reefs protect against storms and dampen other environmental fluctuations, services worth more than ten times the reefs' value for food production. n856 Waste treatment is another significant, non-extractive ecosystem function that intact coral reef ecosystems provide. n857 More generally, "ocean ecosystems play a major role in the global geochemical cycling of all the elements that represent the basic building blocks of living organisms, carbon, nitrogen, oxygen, phosphorus, and sulfur, as well as other less abundant but necessary elements." n858 In a very real and direct sense, therefore, human degradation of marine ecosystems impairs the planet's ability to support life. Maintaining biodiversity is often critical to maintaining the functions of marine ecosystems. Current evidence shows that, in general, an ecosystem's ability to keep functioning in the face of disturbance is strongly dependent on its biodiversity, "indicating that more diverse ecosystems are more stable." n859 Coral reef ecosystems are particularly dependent on their biodiversity. [\*265] Most ecologists agree that the complexity of interactions and degree of interrelatedness among component species is higher on coral reefs than in any other marine environment. This implies that the ecosystem functioning that produces the most highly valued components is also complex and that many otherwise insignificant species have strong effects on sustaining the rest of the reef system. n860 Thus, maintaining and restoring the biodiversity of marine ecosystems is critical to maintaining and restoring the ecosystem services that they provide. Non-use biodiversity values for marine ecosystems have been calculated in the wake of marine disasters, like the Exxon Valdez oil spill in Alaska. n861 Similar calculations could derive preservation values for marine wilderness. However, economic value, or economic value equivalents, should not be "the sole or even primary justification for conservation of ocean ecosystems. Ethical arguments also have considerable force and merit." n862 At the forefront of such arguments should be a recognition of how little we know about the sea - and about the actual effect of human activities on marine ecosystems. The United States has traditionally failed to protect marine ecosystems because it was difficult to detect anthropogenic harm to the oceans, but we now know that such harm is occurring - even though we are not completely sure about causation or about how to fix every problem. Ecosystems like the NWHI coral reef ecosystem should inspire lawmakers and policymakers to admit that most of the time we really do not know what we are doing to the sea and hence should be preserving marine wilderness whenever we can - especially when the United States has within its territory relatively pristine marine ecosystems that may be unique in the world. We may not know much about the sea, but we do know this much: if we kill the ocean we kill ourselves, and we will take most of the biosphere with us. The Black Sea is almost dead, n863 its once-complex and productive ecosystem almost entirely replaced by a monoculture of comb jellies, "starving out fish and dolphins, emptying fishermen's nets, and converting the web of life into brainless, wraith-like blobs of jelly." n864 More importantly, the Black Sea is not necessarily unique.

A2: Closing Guantanamo Solves

Closing Guantanamo was only the first step- more needs to come

Nossel 2008(Susan,Writer for the Guardian, “Closing Gitmo is Just the Beginning” <http://www.guardian.co.uk/commentisfree/cifamerica/2008/nov/19/obama-guantanamo-human-rights> Waldman)

During his first television interview after winning the White House, president-elect Barack Obama reiterated his long-standing promise to shut [Guantánamo Bay](http://www.guardian.co.uk/world/guantanamo). Since the historic vote, legal and policy circles, journalists and human rights activists have hummed about when and how the notorious prison's doors will slam shut once and for all, and what will happen to some 250 detainees still held there. While the incoming president and his team are right to put Guantánamo [at the top of their priority list](http://www.guardian.co.uk/world/2008/nov/11/guantanamo-obama-white-house), when it comes to restoring American leadership on human rights, closing the prison is only a first step.

A2: Boumediene Good

As long as the boumediene ruling is maintained the us will evade the suspension clause of the constitution, denying habeus corpus to our detainees

Corey 2010 (Bruce, The George Washington Law Review, 78 Geo. Wash. L. Rev. 374, Lexis, Waldman)

Courts that employ a de facto sovereignty analysis to determine the reach of the Suspension Clause will also create perverse incentives for the political branches. As shown, a minimal amount of jurisdiction  [\*394]  retained by the host nation will render a federal court powerless to hear a detainee's habeas petition. Therefore, the United States government has a strong incentive to make strategic concessions of jurisdiction to the host nation when negotiating the terms of a military enclave in order to keep the detainees out of the judiciary's reach. As the government stakes out new offshore detention sites in the War on Terror, it is unlikely to insist on complete jurisdiction after Boumediene. Although these strategic concessions may not be as thinly veiled as the Cuban traffic law hypothetical, subtler ruses are conceivable. For example, Cuban criminal jurisdiction over detainees might at first seem like it should have displaced the Suspension Clause's application in Boumediene. But if this retained jurisdiction only applied to acts taken on the island, it should not prevent the detainees from challenging the United States' accusations regarding their conduct prior to detention. Ironically, the Boumediene Court portended its repugnance to such strategies by noting that "our basic charter cannot be contracted away like this" [n125](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277135384676&returnToKey=20_T9594013555&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.958623.5974385296" \l "n125) in rejecting de jure sovereignty as the touchstone of habeas jurisdiction. However, the de facto sovereignty test it endorsed precisely allows for this.

A2: SOFA with Afghanistan Solves

The 2005 agreement is negligible- the us still suspends habeus corpus on all detainees

Corey 2010 (Bruce, The George Washington Law Review, 78 Geo. Wash. L. Rev. 374, Lexis, Waldman)

The new Afghan-run prison was completed in January 2007. [n154](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277135384676&returnToKey=20_T9594013555&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.958623.5974385296" \l "n154) However, the prison can only accommodate about half of the 450 Afghani citizens that the original plans envisioned. [n155](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277135384676&returnToKey=20_T9594013555&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.958623.5974385296" \l "n155)By the U.S. military's own admission, the detention center at Bagram will continue to detain hundreds of people indefinitely. [n156](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277135384676&returnToKey=20_T9594013555&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.958623.5974385296" \l "n156) The United States does not plan to supplement the new prison's capacity, nor does Afghanistan intend to take measures to receive more of its citizens. Thus, about 225 of the Afghani citizens detained at Bagram will not be released to their sovereign's custody in the foreseeable future. Although Afghanistan did express its "intention" in 2005 to take all the Afghani citizens imprisoned at Bagram, it has not signaled a similar intent in four years. This is in contrast to Iraq's persistent and firm position that it wishes to try and punish all people who have violated its laws, as described in Omar's example. This real-life situation of Bagram Airbase raises the question of whether and when a host's stated intentions can become stale. Even though Afghanistan stated its desire to exercise jurisdiction over the Afghani citizens detained at Bagram, should a court give this statement any weight when Afghanistan has failed to actually exercise jurisdiction after four years? A fact relevant in answering that question is that Afghanistan's exercise of custody over its citizens was contingent on the United States furnishing the Afghani government with the resources to do so. Therefore, until the United States expresses an intent to supplement the capacity of the new prison facility, we can assume that Afghanistan has impliedly waived its jurisdiction over the 225 detainees in question. This is because until the United States provides Afghanistan with a place to hold the rest of the detainees, Afghanistan refuses to exercise jurisdiction over them. The moment the United States expresses an intent to fulfill the remainder of its promise, U.S. custody over the detainees changes from indefinite to temporary. As shown above, temporary U.S. custody requires a bar to the writ.

A2: Obama Solves

don’t believe the propganda- the situation hasn’t improved- bagram is still a torture facility

Worthington 2010 (Andy, Writer for the Public Record, “Bagram: Graveyard of the Geneva Convention”, <http://www.andyworthington.co.uk/2010/02/05/bagram-graveyard-of-the-geneva-conventions/> Waldman)

Despite official claims that the conditions at Bagram have improved in the years since, [a BBC report](http://news.bbc.co.uk/1/hi/world/south_asia/8116046.stm) in June 2008, based on interviews with men held in the prison between 2002 and 2008, found that only two “said they had been treated well,” while the rest complained that “they were beaten, deprived of sleep and threatened with dogs.” In “Undue Process” ([PDF](http://www.humanrightsfirst.info/pdf/HRF-Undue-Process-Afghanistan-web.pdf)), a Human Rights First report published in November 2009, a distinction was made between those held in Bagram’s early years, and those held since 2006, when, as the report noted, ex-detainees “described significantly better treatment than those captured earlier, but some still told of being assaulted at the point of capture and being held in cold isolation cells for several weeks after their capture.” Moreover, in October 2009, during a panel discussion following the launch of the new Guantánamo documentary, “[Outside the Law: Stories from Guantánamo](http://www.andyworthington.co.uk/outside-the-law-stories-from-guantanamo/),” former prisoner Omar Deghayes explained how his Pakistani brother-in-law was recently captured on a visit to Afghanistan and ended up in Bagram. As [Omar described it](http://www.andyworthington.co.uk/2009/12/30/video-qa-with-moazzam-begg-omar-deghayes-andy-worthington-and-polly-nash-at-the-launch-of-outside-the-law-stories-from-guantanamo/), his brother-in-law’s wife, who was allowed to talk to her husband through [a videophone system](http://www.icrc.org/Web/Eng/siteeng0.nsf/html/afghanistan-feature-230908)established by the International Committee of the Red Cross in early 2008, reported “how horribly and badly tortured he was, how he had marks on his eyes and was really badly battered.”

Obamas new reviews still don’t meet i-law- bagram must be dismantled

Prasow 2010 (Andrea, Senior Counter Terrorism Counsel Human Rights Web, “The Bagram Detainee Review Boards: Better, but still falling short”, <http://www.hrw.org/en/news/2010/06/02/bagram-detainee-review-boards-better-still-falling-short>, Waldman)

The treatment of detainees in Afghanistan is still a far cry from what is required under international law during a civil war: detainees should be brought before a court, charged with a criminal offense, and tried before a court that meets basic fair trial standards. Or they should be released. The US and its coalition partners need to do much more to get a functioning Afghan judicial system up and running, but the new system at Bagram is a significant improvement over past US practice. Those detained at least had the chance to show up and be heard. And some of them, after presenting their side of the story, will be released and will go home.

Top of Form

A2: Obama Solves

Obamas measures are just cosmetic- no real change will come from new initiatives at bagram

Spiegel 2009 (“Detainees Abuse continues at Bagram” <http://www.globalpolicy.org/empire/us-un-and-international-law-8-24/torture-and-prison-abuse/48196.html> Waldman)

Obama has announced new guidelines for the treatment of the Bagram detainees, which would require that a US military official provide assistance to each detainee -- not as an attorney but as a personal adviser of sorts. This representative could then review evidence and witness testimony for the first time, and could request that a review board examine the case. Worst Abuse However attorney Tina Foster feels that the new initiative is just a cosmetic measure. "There is absolutely no difference between the Bush administration and the Obama administration's position with respect to Bagram detainees' rights," she says during an interview with SPIEGEL in her office in the New York borough of Queens. Foster, a petite 34-year-old with dark brown eyes and black hair, took on the cases of Guantanamo detainees as an attorney with the New York-based Center for Constitutional Rights. That was before she discovered that the worst prisoner abuse happened long before the detainees arrived in Guantanamo -- at Bagram. Since 2005, Foster has worked exclusively with Bagram cases. She has appeared in court to file habeas corpus petitions for three Bagram inmates. Normally, every prisoner is entitled to habeas corpus rights, which would give him the opportunity to petition a US court to investigate the reasons for his arrest.

A2: Afghan Control Solves

recent placing of de jure control to afghanistan will change nothing- there is only a chance that it provides the us more ability to flaunt i-law

Luqman 2010 (Madiha, Writer for the Daily Times, “But bagram still exists”, <http://www.dailytimes.com.pk/default.asp?page=2010\04\05\story_5-4-2010_pg3_4> Waldman)

Then there are other steps that US officials have taken to distance themselves from any liability for human rights violations at Bagram. In recent months, the US has taken steps to handover administrative control of the detention facility to Afghan authorities. This means two things. First, that de jure control over the facility will put the Afghans solely in charge of prosecuting all detainees, and the current discredited state of the Afghan judicial system means that any trials that take place under the Afghan law will compromise their basic human right to a fair trial, with trial standards falling far below the international law trial standards. Such a move is nothing but a legal tactic to keep Bagram’s cases out of US courts. Second, there is a concern that such transfer of administrative control to Afghans will hardly make any difference to de facto American control over the detention facility, which is essentially located at an American military base. Moreover, Bagram continues to be a central point of renditions of detainees captured from locations all over the world. If anything, delegating administrative control to Afghan officials will give the US carte blanche to do as it pleases in Bagram without being held legally responsible.

A2: Supreme Court Will Solve

the supreme court has no plans to overturn the district court decision- make up of the supreme court shows

Ghani 2010 (Aisha, Law Student @ Stanford University, “The Grim Future of Bagram Litigation”, <http://www.commondreams.org/view/2010/05/30-1> Waldman)

While the current situation is disheartening as it is, the future appears to be even less consolation for those currently detained at Bagram. Even if this case is granted certiorari and appears in front of the Supreme Court, it remains unlikely that an outcome favoring habeas will result. Consider it a combination of bad timing and bad luck, but without the presence of Justice Stevens, whose opinion swung the pendulum in favor of habeas for Guanatamo detainees in the Supreme Court's 5-4 decision in Boumediene, the remaining presiding judges are likely to reach a 4-4 decision, which would simply reaffirm the Appeals Courts' decision. The probable replacement of Justice Stevens with Supreme Court nominee Elena Kagan would also shift the historical balance in cases concerning detainees. Because Kagan has been representing the interests of the administration as Solicitor General in the Bagram litigation, she would not only recuse herself from future proceedings in this case, but will probably also end up recusing on all major detainee issues that come before the court, and this is likely to result in the Supreme Court denying certiorari in future cases.

A2: Obama Solves I-Law

even with obamas election recent court rulings violate i-law

Eviatar 2010 (Daphne, Senior Associate in Human Rights First's Law and Security Program, “Court Ruling Highlights need for Due Process at Bagram”, <http://blog.humanrightsfirst.org/2010/05/d.html>, Waldman)

The D.C. Circuit Court of Appeals on Friday morning issued [a stunning ruling](http://www.scotusblog.com/wp-content/uploads/2010/05/CA-ruling-Maqaleh-5-21-10.pdf): that the United States government may seize suspected terrorists outside the United States, send them to the U.S.-run Bagram detention center in Afghanistan, and thereby deprive them of the right to challenge their detention in federal court. The question came up in the case of Maqaleh v. Gates, which involves two Yemenis and a Tunisian, one of whom was arrested in Thailand, and all of whom were flown from outside Afghanistan to Bagram by U.S. authorities and imprisoned there. They've been there, without charge or trial, for the past seven years. The D.C. court relied heavily on the fact that these three men, all suspected of ties to terrorism, are being held in a battlefield prison in a theater of active war. But as American University law professor [Steven Vladeck points out,](http://prawfsblawg.blogs.com/prawfsblawg/2010/05/outoftheater-capture-or-why-maqalehs-narrow-reasoning-sweeps-so-broadly.html) the only reason they were "in theater" is because the U.S. government had decided to move them there. So this case stands for "the proposition that location of capture is less important than location of detention--and that, so long as the latter is in a zone of active combat operations, there will be no habeas." The case isn't necessarily over, because the detainees could ask for rehearing or appeal to the Supreme Court. But in the meantime, it highlights the absurdity of the United States' claim that the entire world is a battleground and suspected terrorists seized anywhere can be held by the U.S. government as enemy belligerents without the opportunity to challenge that in an impartial federal court. Although the laws of war do allow detention of some belligerents captured on a battlefield in an international conflict, there's nothing in U.S. or international law that authorizes capture of alleged enemies anywhere in the world to be brought to a battlefield where the U.S. is fighting local insurgents, for purposes of their indefinite detention. The United States continues, however, to detain more than 800 prisoners at Bagram, on very shaky legal ground. To be sure, the U.S. military does eventually offer them some form of a hearing to decide whether they're actually "belligerents" fighting U.S. forces. But as [Human Rights First has pointed out](http://www.humanrightsfirst.org/us_law/detention/index.aspx) before, the procedures in those hearings -- although improved during the Obama administration -- still don't come near providing real due process.

A2: Improvements Solve I-Law

recent improvements don’t solve- the court ruled similar conditions ‘wholly inadequate’ at guantanamo

Eviatar 2010 (Daphne, Senior Associate in Human Rights First's Law and Security Program, “Court Ruling Highlights need for Due Process at Bagram”, <http://blog.humanrightsfirst.org/2010/05/d.html>, Waldman)

For one thing, the 800 + detainees at Bagram have no right to a lawyer. Although they are assigned a "personal representative" by the military to represent them, there are only about eight such representatives available to represent more than 800 prisoners, and none of them are lawyers. Meanwhile, their own ability to collect evidence and call witnesses is limited to whatever is deemed "reasonably available" by the military. On top of that, much of the evidence used to justify detaining the suspects has been classified; the suspects themselves never actually get to see it. So how can they defend themselves, or even inform their "personal representative" of the relevant facts, if they don't know what evidence is being used against them, or the credibility of whoever provided it? In Boumediene v. Bush, the U.S. Supreme Court ruled that similar proceedings provided at Guantanamo Bay were wholly inadequate, and that prisoners there have a right to challenge their detention in federal court. Although the D.C. Circuit Court decision on Friday acknowledged this, it ultimately decided the case based on other considerations, such as the practical difficulty of providing habeas corpus rights to hundreds of detainees held in Afghanistan.

A2: Obama XO Solves

obamas xo’s don’t solve bagram- statements by gates confirm detentions will increase without i-law complince

Amnesty International 2009, (Organization that Pushes for the Recognition of Human Rights for All, “USA: OUT OF SIGHT, OUT OF MIND, OUT OF COURT? THE RIGHT OF BAGRAM DETAINEES TO JUDICIAL REVIEW” <http://www.amnesty.org/en/library/asset/AMR51/021/2009/en/415f8464-cffe-4c25-a09a-0fce7e839709/amr510212009en.html>Waldman)

On 22 January 2009, President Barack Obama signed three executive orders on detentions and interrogations. One of them committed his administration to closing the detention facility at the US Naval Base in Guantánamo Bay within a year, and directed officials to conduct an immediate review of all the cases of detainees currently held there to determine what should happen to them. Another order took substantial steps towards ending the use of secret detention and torture. The third set up an interagency task force to review the “lawful options” available to the US government with respect to the “apprehension, detention, trial, transfer, release, or other disposition of individuals captured or apprehended in connection with armed conflicts or counterterrorism operations”. Amnesty International has welcomed the executive orders and has called on the new administration to ensure that the USA adopts laws and policies on detentions fully consistent with its international obligations. The organization has made a number of recommendations to this end, which it has sent to the new administration.[3](http://www.amnesty.org/en/library/asset/AMR51/021/2009/en/415f8464-cffe-4c25-a09a-0fce7e839709/amr510212009en.html" \l "sdfootnote3sym) The new administration has not yet said what its intentions are for US detentions in Afghanistan, in particular the long-term detention facility being operated by the US Department of Defense at Bagram airbase, where hundreds of detainees are being held. In a Senate Armed Services Committee hearing on 27 January 2009, asked about the future of detentions in Bagram under the new administration, US Secretary of Defense Robert Gates confirmed that “we certainly continue to hold detainees at Bagram. We have about 615 there, I think, something in that ballpark”. New detentions by US and allied forces in Afghanistan have been occurring on a regular basis. For example, according to reports from the American Forces Press Service, at least 65 “militants” were taken into custody by coalition forces during January 2009.[4](http://www.amnesty.org/en/library/asset/AMR51/021/2009/en/415f8464-cffe-4c25-a09a-0fce7e839709/amr510212009en.html" \l "sdfootnote4sym)Given that President Obama is committed to “refocus[ing] American resources on the greatest threat to our security – the resurgence of al Qaeda and the Taliban in Afghanistan and Pakistan” – including by substantially increasing US troop levels in Afghanistan, US detentions in Bagram and elsewhere in Afghanistan are likely to continue, if not increase.[5](http://www.amnesty.org/en/library/asset/AMR51/021/2009/en/415f8464-cffe-4c25-a09a-0fce7e839709/amr510212009en.html" \l "sdfootnote5sym) The US government must ensure that all detentions, wherever they are conducted, are brought into full compliance with international law and standards.

A2: Bagram key to Security

No impact to closing Bagram- Just a risk we solve i-law

AJP 2009 (“US Military Chief: More Troops Needed in Afghanistan” <http://www.muslims.net/news/newsfull.php?newid=269311> Waldman)

Last month, a top US major general, Douglas Stone, cited by US public broadcaster, NPR, suggested that as many as 400 of the 600 inmates should be released. He is reported to have said that they posed no threat to the United States,and recommended that the prison be abandoned. Bagram air base in Afghanistan has been used since 2002 as a holding centre for prisoners captured outside of Afghanistan and Iraq. But inmates have had no access to lawyers and have not be able to collect evidence to challenge their detention. Human and [civic rights groups](http://www.aclu.org/safefree/detention/40982prs20090913.html) have expressed concern over the detention conditions at Bagram, and their legality.

A2: New Facility Solves

The new facility is just like Guantanamo- It doesn’t solve I-Law abuses

Horowitz 2009, Senior Associate for the Open Society Institute, “The New Bagram: Has anything Changed?” <http://www.huffingtonpost.com/jonathan-horowitz/the-new-bagram-has-anythi_b_365819.html> Waldman)

As a Human Rights First [report](http://www.humanrightsfirst.info/pdf/Fixing-Bagram-110409.pdf) reveals, although the United States has improved the procedures previously in place at Bagram, those new policies closely resemble the discredited policies of the Cuba-based detention facility. Given the history at Guantanamo Bay, it's not hard to predict disaster -- unless U.S. detention authorities address the pitfalls immediately. Similar to Guantanamo Bay, the new Bagram procedures deny access to lawyers, but grant them personal representatives and allow detainees to call witnesses. Yet this process failed when it was used in Guantanamo. A Seton Hall [study](http://law.shu.edu/publications/guantanamoReports/final_no_hearing_hearings_report.pdf) found that in 78 percent of Guantanamo cases reviewed, the personal representative met with the detainee only once; and in 79 percent of the cases the personal representative meet with the detainee only a week before the hearing. This certainly did not provide anyone with a meaningful defense. The study also showed that very few witnesses were allowed to appear, effectively nullifying the right to call witnesses. While additional improvements to the facility are still needed, there is evidence of a desire to improve detention conditions. The isolation cells contain toilets, which limit forced extractions and humiliating searches each time a detainee has to go to the bathroom. The metal meshed observer walk-ways above the 20 person communal caged cells have mats on them to reduce the noise of patrolling guards.

A2: Doesn’t violate ICAT/Diplomatic Assurances

Plan Violates ICAT- Diplomatic Assurances don’t solve

Turchick 2010 (Chuck, writer for the Minnesota Post. “Accountability for torture is about the soul of our country, yet we hear only silence from our leaders” Online Waldman)

Secret places of detention are being discovered to this day. One at Bagram Airfield, Afghanistan, and another at Guantanamo Bay, Cuba, have just recently been revealed. The United States renditions people to countries that it describes in our own State Department's Country Reports on Human Rights Practices as having systematically violated the human rights of people held in its prisons. We say we're getting "diplomatic assurances" that torture will not occur. The Convention Against Torture, ratified by the United States Senate in 1994, includes nothing about "diplomatic assurances" in its prohibition against rendition. The Convention Against Torture, in Article 2, says: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture." Yet in the years after 9/11 we heard from several Bush administration officials, including Dick Cheney, Condoleezza Rice and John Yoo, that we have to understand the times. After all, we had just been attacked.

A2: ICAT Bad

I-CAT is used as a definition of torture- uniquely it prevents all uses

Mayerfield 2006 (Jamie, Harvard Law Review, “Playing by Our Own Rules: How U.S. Marginalization of International Human Rights Law Led to Torture”, <http://www.law.harvard.edu/students/orgs/hrj/iss20/mayerfeld.pdf> Waldman)

Much of this abuse is rightly called torture. By torture, I mean the intentional infliction of severe physical or mental pain or suffering. This language comes from the canonical first article of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“Torture Convention”).9 The claim that the interrogation methods include forms of torture will strike many readers as obvious. Others will be persuaded if they read testimonies of the victims and learn more about the methods used. One has to get past the generic descriptions that have become the standard currency of media reports. These descriptions, often taken from the officials who authorized the methods, can be misleadingly benign, and leave readers in ignorance about the methods’ real effects.10 That the techniques are intended to cause severe pain or suffering is suggested by the Administration’s own insistence that tough measures are needed to obtain information from detainees, especially those purportedly trained to resist interrogation.11 Several of the techniques—including sleep deprivation, forced standing, and waterboarding—are infamously associated with the Gestapo, Stalin’s secret police, and the Inquisition.12 Many detainees in U.S. custody have died as a result of their treatment.13

\*\*\*Afghan Stability Advantage\*\*\*

Afghan Stability Internal

enforcing i-law in terms of terrorism and checking the executives power is key to global security

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| |  | | --- | | Shattuck 2006 , (John, “The Legacy of Nuremberg: Confronting Genocide and Terrorism Through the Rule of Law”, 10 Gonz. J. Int’l L. (2006),  <http://www.gonzagajil.org/>., Waldman) | |
| |  | | --- | | In order to repair the damage done over the past four years to security and freedom around the world, we need to restore the rule of law to American foreign policy. First, it's time for the Congress to begin to reassert its constitutional authority to provide a check on executive power.  Through oversight hearings and legislation, Congress should make it clear that the President is not above the law, and is bound by the Geneva Conventions, the Torture Convention, the International Covenant on Civil and Political Rights and all the other international laws that have been ratified and adopted as part of our domestic law.  Congress should do the same thing to reassert its authority over other federal laws that have been flagrantly violated by the President, such as the Foreign Intelligence Surveillance Act.  In recent weeks, Republicans as well as Democrats have begun to challenge the lawlessness of the Bush Doctrine.  In this election year it's essential that Amnesty and other citizen organizations conduct a nonpartisan grassroots campaign to restore the rule of law to American foreign policy. This kind of campaign has been successful at the local level, where many cities and towns have gone on record against anti-civil liberties measures in the war on terrorism.  Now it's time to take the campaign to a national level. Second, the United States should take the lead in strengthening international law on terrorism.  The UN is working on this issue, but the Bush Doctrine has kept the U.S. from actively participating.  This is a serious mistake, because by stigmatizing terrorism as a crime against humanity, we would rebuild our alliances, isolate terrorists as outlaws, and confront them as focused targets of a law enforcement crisis, not ill-defined enemies in an open-ended war. Third, the U.S. should protect human rights at home.  When the President violates civil liberties by defying an act of Congress or the Constitution, the Congress should rein him in, and not wait for the courts to do so.  Here again, a grassroots citizens campaign is the key to moving the Congress. Fourth, the U.S. should resume its leadership in strengthening the system of international law it helped create at Nuremberg.  The Bush Doctrine has blocked all action on this front, but a growing number of Republicans as well as Democrats in Congress are expressing concern that the U.S. is undermining its own security by becoming an outlaw in international negotiations.  We should rejoin negotiations on such critical issues as climate change, nonproliferation of weapons of mass destruction, and international justice. | |  | |

Winning the War Internals

giving detainees at bagram the right to habeus is key to winning the war- hearts and minds of afghanis

Eviatar 2010 (Daphne, Senior Associate in Human Rights First's Law and Security Program, “Court Ruling Highlights need for Due Process at Bagram”, <http://blog.humanrightsfirst.org/2010/05/d.html>, Waldman)

In *Boumediene v. Bush*, the U.S. Supreme Court ruled that similar proceedings provided at Guantanamo Bay were wholly inadequate, and that prisoners there have a right to challenge their detention in federal court. Although the D.C. Circuit Court decision on Friday acknowledged this, it ultimately decided the case based on other considerations, such as the practical difficulty of providing habeas corpus rights to hundreds of detainees held in Afghanistan. Setting aside the broader issue of who’s a belligerent and who gets to decide, Friday’s decision underscores the importance of the Obama administration providing a meaningful way for Bagram detainees to challenge their detention. Improving those procedures isn’t only a matter of the United States meeting its obligations under international law. It also has very practical implications. The U.S. military has said repeatedly that its strategy in Afghanistan depends on winning the "hearts and minds" of the Afghan people. Only by providing legitimate public proceedings that afford detainees a meaningful ability to challenge their detention can the United States ever hope to win that critical battle.

us detainment policy at bagram is losing america the war in afghanistan

Horowitz 2009 (Jonathan, Consultant for the Open Society Institute, “Bagram Prison Threatens Success in Afghanistan” <http://www.huffingtonpost.com/jonathan-horowitz/bagram-prison-threatens-s_b_275495.html>, Waldman)

The U.S. military finally seems to have learned that dropping bombs on civilians isn't the way to win the hearts and minds of Afghans. But neither is grabbing people out of their houses and throwing them in jail indefinitely with no rights. For in Afghanistan seven years, U.S. detention policy has undermined our military and political interests in Afghanistan, and it continues to do so to this day. The U.S. is currently in the process of rolling out a new counterinsurgency strategy. It prioritizes protecting civilians and winning back the support of Afghans confronted with a resurgent Taliban. General Stanley McChrystal's July tactical directive describes the war in Afghanistan as "different from conventional combat" and instructs soldiers to "avoid the trap of winning tactical victories -- but suffering strategic defeats-by causing civilian casualties or excessive damage and thus alienating the people." But many Afghans rank U.S. detention policy as their biggest complaint against foreign forces -- second only to civilian casualties. President Karzai and other leading candidates in the recent election blasted U.S. detention policy during their campaigns. And the Taliban uses the Bagram detention center -- the U.S.'s central prison -- as a rallying cry to recruit Afghans. Countless Afghans welcomed American soldiers with open arms in 2001. Many, especially ethnic Pashtuns, now see the U.S. soldier as a boogie man. "We have but one fear of Allah, but we are also scared of the U.S. When they pass through we think they will grab us and take us away," one man told me. Another man from the violent Kurangal Valley explained, "When I'm home I'm afraid they will come and arrest me. As soon as I see Americans I have fear and run away... But if I run they will think I'm doing something wrong and shoot me." These are the people the U.S. is supposed to be courting.

Terrorism/Afghan Stability Internal

majority at bagram are innocent- this just fuels terrorism and radicalism

Worthington 2010 (Andy, Writer for the Public Record, “What is Obama Doing at Bagram? (Part Two): Executive Detention, Rendition, Review Boards, Released Prisoners and Trials”, <http://pubrecord.org/torture/7811/obama-doing-bagram-part-two/> Waldman)

The introduction of a new review process was initiated for two reasons, one of which was considerably more benign than the other. The first involved the military [belatedly learning from mistakes in Iraq](http://www.andyworthington.co.uk/2010/01/26/bagram-the-annotated-prisoner-list-a-cooperative-project/), after Gen. David Petraeus, the overall commander in Afghanistan and Iraq, appointed Maj. Gen. Doug Stone to run the detention system in Iraq. As [an NPR report explained](http://www.npr.org/templates/story/story.php?storyId=112051193) last August, “He had 21,000 detainees. But he found that most of these Iraqi detainees — as many as two-thirds — were not radicals, but mostly illiterate and jobless young people. Some were innocents and others worked for the insurgency because they just needed the money. And Stone worried that detaining them was only making matters worse, actually turning them into radicals.” NPR added that, as a result of his success in Iraq, Gen. Petraeus sent Maj. Gen. Stone to review the detention program in Afghanistan, and that he “went to Afghanistan with a team, interviewed detainees, visited detention facilities,” and produced a 700-page report, in which he estimated that “as many as 400 of the 600 held at Bagram can be released,” explaining that “many of these men were swept up in raids” and “have little connection to the insurgency.”

Winning the War Internal

we’re losing the hearts and minds of afghanis now- a policy change is necessary

Mercille 2010 (Julien, Lecturer at the University College in Dublin, “Losing Afghan Hearts and Minds” <http://english.irib.ir/component/k2/item/60774-losing-afghan-hearts-and-minds> Waldman)

According to a report by the International Council on Security and Development (ICOS), the North Atlantic Treaty Organization (NATO) is losing hearts and minds in Afghanistan. It gives a clear signal of the dangers of the military operation against Qandahar planned for this summer. Contrary to its stated objectives of protecting the population from insurgents, NATO is actually raising the likelihood that poor Afghans will join the Taliban - not a great report card for General Stanley McChrystal, the top commander in Afghanistan, whose strategies seem to be backfiring. The report, entitled Operation Moshtarak: Lessons Learned, is based on interviews conducted last month with over 400 Afghan men from Marjah, Lashkar Gah and Qandahar to investigate their views on the military operation to drive out the Taliban, launched in February in Helmand province, and its aftermath. It corroborates previous assessments, such as one from the Pentagon released last week which concluded that popular support for the insurgency in the Pashtun south had increased over the past few months. Not one of the 92 districts that are deemed key to NATO operations supported the US and NATO forces whereas the number of those sympathetic to or supporting the insurgency increased to 48 in March, from 33 in December 2009. There is no doubt that the joint operation has upset Afghans. Some 61% of those interviewed said they now feel more negative about the US and NATO forces than before the offensive. This plays into the insurgents hands, as 95% of respondents said they believed more young Afghans are now joining the Taliban. In addition, 67% said they do not support the NATO presence in their province and 71% said they just wanted foreign troops to leave Afghanistan entirely. Locals don't have much confidence in NATO "clearing and holding" the area, as 59% thought the Taliban would return to Marjah once the dust settled, and in any case, 67% didn't believe NATO and the Afghan security forces could defeat the Taliban.

Winning the War Internal

closing the base would help us win the war- hearts and minds of afghans

Ally 2009 (Sahr Muhammed , Senior Associate in the Law and Security Program @ Human Rights First, “An examination of Detention and Trials of Bagram Detainees in April 2009” <http://www.humanrightsfirst.info/pdf/HRF-Undue-Process-Afghanistan-web.pdf> Waldman)

Consistent with international law and with the U.S. strategy to progressively devolve responsibility for detentions to the Afghan government, these grounds and procedures should be addressed through Afghan legislation or if it suffices under the Afghan Constitution, a security agreement between the Afghan and U.S. governments. The grounds and procedures established must be consistent with international humanitarian law and the applicable standards of international human rights law, as outlined below. The implementation of such an agreement regularizing U.S. detention in this way would advance the credibility of U.S. military actions in the eyes of Afghans, thus supporting U.S. counterinsurgency goals in Afghanistan. The position of the United States on the legal character of the conflict in Afghanistan after the defeat of the Taliban government remains unclear. As discussed below, however, our recommendations for improvements in the legal framework and, in particular, the specific grounds for detention and procedures to challenge the legality of detention are also based on sound policy that reflects American values and interests, and will advance U.S. strategy in Afghanistan, regardless of the administration’s view on the legal character of the current conflict. In our view, the United States is obligated to take these steps.138

Winning the War Internal

Detentions give the taliban moral high ground- it undermines us presence

International Crises Group 2008 (it’s an international, [non-profit](http://en.wikipedia.org/wiki/Non-profit), [non-governmental organization](http://en.wikipedia.org/wiki/Non-governmental_organization) whose mission is to prevent and resolve deadly conflicts around the world through field-based analyses and high-level advocacy. It is generally recognized as the world’s leading independent, non-partisan, source of analysis and advice to governments, and intergovernmental bodies like the United Nations, European Union and World Bank, on the prevention and resolution of deadly conflict. “Taliban Propaganda: Winning the War on Words?” <http://www.crisisgroup.org/~/media/Files/asia/south-asia/afghanistan/158_taliban_propaganda___winning_the_war_of_words.ashx> Waldman)

Extrajudicial detentions at Guantanamo Bay and Bagram airbase,124 along with ham-fisted or ill-informed raids, have undermined the perceived legitimacy of the foreign presence and have become enduring symbols of oppression, particularly among Pashtuns. At least two books by Afghans on experiences in Guantanamo have been widely circulated,125 and the image of being imprisoned on a far-distant island has entered the folk culture. A tarana framed as a letter from a prisoner to his mother is popular on audio cassettes and MP3: I am imprisoned in Cuba jail/I sleep neither during the day nor during the night, my mother/It’s a piece of land amidst the ocean/This is Cuba Island/There are detainees in it/It is surrounded by bars/ There are cages/Which are very strong/They are as small/as a human being/These are for horror/ These are for tragedy/These are for punishing the poor nation.126 Yasir delivered an audio homily about Guantanamo, which has also been distributed in a printed pamphlet stating: “This prison is being used as a psychological torture tool and as psychological warfare, to create terror amongst Muslims”.127 Taliban magazines regu-larly carry “letters” allegedly from inmates of Guantanamo or Bagram.128 DVDs showing examples of raids and cultural misunderstandings are used to depict the international military presence as an occupation – some even pirated from Western news productions. An Australian documentary showed the then Uruzgan governor Jan Mohammed using filthy language and sexual slurs as he detained a young villager while supported by a group of marines.129 The version circulated by the Taliban was subtitled: “The Americans want to strengthen human rights in Afghanistan? You should judge”. Detentions and raids by foreign troops are eroding local support for the intervention. Agreements which outline the responsibilities and obligations of international forces and include mechanisms to address allegations of abuse are vital. Detention issues are complex, as the Canadians have found. Like many ISAF nations reluctant to get into detentions themselves, they handed prisoners over to Afghan authorities, only to then be accused of turning a blind eye to torture.130 There must be a greater focus on the wider rule of law in Afghanistan, including public trials, if Taliban propaganda is to be negated.

Winning the War Internal

Detainment at bagram has changed public sentiment against the united states- we lost the moral high ground

Berrigan 2009 (Frida, Senior program associate at The New America Foundation's Arms and Security Initiative, “Losing the Moral High Ground”, <http://www.fpif.org/articles/losing_the_moral_high_ground> Waldman)

In his statement to American authorities Nasrat said, "When (the Americans) came to Afghanistan everybody was waiting for America to help us build our country. We were looking for you guys and we were very happy that you would come to our country. The people who hated you were very few, but you just grabbed guys like me. Look at me. Our very happiness, you changed it to (bitterness)." The United States wrestled these men from their home countries and held them from their families for as long as eight-and-a-half years. We found no evidence against them or, in collecting evidence and intelligence, failed to follow our own laws (which have served us well in every other war we've fought). The men have been destroyed physically, psychologically, and emotionally — and most of them have been found guilty of nothing. We cannot give them back years of their lives. We can't give them back dignity, wholeness, or their faith in the goodness of America. We can't even — after 10 months of work — give them a satisfactory repatriation solution. Happiness to bitterness. Moral high ground to quagmire. The Obama administration has a lot of ground to cover in the next four months.

Winning the War Internal

Only by removing the detention center can the military get the afganis on their side

Human Rights First.org 5/21

(FRIDAY, MAY 21, 2010 Court Ruling Highlights Need for Due Process at Bagram http://blog.humanrightsfirst.org/2010/05/d.html Human Rights First is a non-profit, nonpartisan international human rights organization based in New York and Washington D.C. To maintain our independence, we accept no government funding. By Daphne Eviatar, Senior Associate, Law and Security)

In Boumediene v. Bush, the U.S. Supreme Court ruled that similar proceedings provided at Guantanamo Bay were wholly inadequate, and that prisoners there have a right to challenge their detention in federal court. Although the D.C. Circuit Court decision on Friday acknowledged this, it ultimately decided the case based on other considerations, such as the practical difficulty of providing habeas corpus rights to hundreds of detainees held in Afghanistan. Setting aside the broader issue of who's a belligerent and who gets to decide, Friday's decision underscores the importance of the Obama administration providing a meaningful way for Bagram detainees to challenge their detention. Improving those procedures isn't only a matter of the United States meeting its obligations under international law. It also has very practical implications. The U.S. military has said repeatedly that its strategy in Afghanistan depends on winning the "hearts and minds" of the Afghan people. Only by providing legitimate public proceedings that afford detainees a meaningful ability to challenge their detention can the United States ever hope to win that critical battle

Afgani civilians are key to winning the war in afganistan

Peace Action West.org 4/16

(The strategic harm of civilian casualties APRIL 16, 2010 Chen Lin http://blog.peaceactionwest.org/2010/04/16/the-strategic-harm-of-civilian-casualties/)

But there is nothing wrong with the premise of McChrystal’s argument – that what Afghans think of the US determines the extent to which the US can be helpful in Afghanistan. McChrystal has correctly identified civilian casualties as not only “a legal and moral issue” but also “an overarching operational issue – clear eyed recognition that loss of popular support will be decisive to either side in this struggle. The Taliban cannot militarily defeat us – but we can defeat ourselves.” However a fundamental flaw of the US winning hearts and minds strategy (WHAM) is that because the Taliban are tightly woven into the fabric of Afghan society, no matter how carefully we wage the war against them, innocent civilians will be hurt and we will continue to work against ourselves. And that’s why we need a wholely different approach in Afghanistan.

Civilians Key

Civillians key to war in afghanistan

Balan 09

(NOTE: He’s quoting a CNN corospondent-CNN’s Ware: U.S. 'Cannot Win the War in Afghanistan,' Pushes 'Deals' W. Taliban By Matthew Balan ([Bio](/bios/matthew-balan.html) | [Archive](/blogs/matthew-balan)) Mon, 07/13/2009 - 14:10 ET Matthew Balan is a news analyst at Media Research Center. He graduated from the University of Delaware in 2003, and worked for the Heritage Foundation from 2003 until 2006, and for Human Life International in 2006. http://newsbusters.org/blogs/matthew-balan/2009/07/13/cnn-s-ware-u-s-cannot-win-war-afghanistan-pushes-deals-w-taliban

Despite the change in administration, CNN’s Michael Ware, who [regularly issued doom-and-gloom reports on Iraq in past years](/node/4573), bluntly stated during a report on Thursday’s Anderson Cooper 360 that “America cannot win the war in Afghanistan...with bombs and bullets,” and offered that the only solution to the attacks on NATO troops was “cutting deals” with the Taliban and its leader, Mullah Omar. Ware made this impolitic remark from the middle of the thoroughly Islamist border region between Afghanistan and Pakistan. The correspondent presented clips with interviews with Pakistani military and intelligence officials, and advanced the notion that Pakistan could serve as a mediator in such “deals” with the al Qaeda ally [audio clips from the report [available here](http://media.eyeblast.org/newsbusters/static/2009/07/2009-07-09-CNN-AC-Ware.mp3)]. After giving a dramatic description of the region he had traveled to, Ware delivered his personal assessment of the Afghan campaign: WARE: To put it simply, America cannot win the war in Afghanistan. It certainly can’t win it with bombs and bullets, and it can’t win it in Afghanistan alone. But part of the answer lies here, where I’m standing, in these mountain valleys in Pakistan on the Afghan border, because this is al Qaeda and Taliban territory. Right now, there’s as many as 100 Taliban on that mountaintop between the snowcapped peaks and amid those trees. They’re currently under siege from local villagers, who are driving them from their bunkers. But at the end of the day, it’s the Pakistani military who tolerates the presence of groups like the Taliban, and it’s not until America can start cutting deals with these people that there’s any hope of the attacks on American troops coming to an end.

A2: Full Withdrawal Counterplan/Russian Relations Add-On

Full Withdrawal would Destabilize Pakistan

**Lal** **2006**, Rollie, Dr. Rollie Lal is a Political Scientist at RAND.  “Central Asia and It’s Asian Neighbors: Security and Commerce at the Crossroads” <http://www.rand.org/pubs/monographs/2006/RAND_MG440.pdf> Waldman)

The U.S. interest in preventing a return of militant training camps and groups such as the Taliban and al Qaeda indicates that a continued U.S. military presence in Afghanistan is necessary in the near term to help maintain stability. The government of Hamid Karzai has repeatedly requested a larger U.S. and international presence to assist in maintaining security and in the rebuilding of Afghanistan. As stability of the central government in Kabul is critical to the security of its neighbors, Uzbekistan, Kazakhstan, Tajikistan, and Kyrgyzstan have also emphasized that a continued international presence in Afghanistan would be beneficial, and an early withdrawal disastrous.16 While problems persist in the region despite U.S. presence and assistance, the countries of Central Asia have noted that they would be even less capable of preventing the growth of illegal trade and extremist groups throughout the region in the absence of a U.S. role in Afghanistan.17 Thus, it is likely that these states, the United States, and other countries such as Russia and Iran, who share an interest in promoting peace and security in Afghanistan, will have reasons and arenas in which to cooperate.

A2: Warlords Solve Stability

Warlords are a destabilizing force

Katzman 2009 (Kenneth, Specialist in Middle East Affairs Congressional Research Service, “Afghanistan: Post-Taliban Governance, Security, and U.S. Policy” <http://fpc.state.gov/documents/organization/124078.pdf> Waldman)

A key to U.S. strategy, particularly during 2002-2006, was to strengthen the central government by helping Karzai curb key regional strongmen and local militias—whom some refer to as “warlords.” These actors have been considered a threat to Afghan stability because of their arbitrary administration of justice, and the popular resentment of their use of their position to enrich themselves and their supporters. However, Karzai has, to some extent, succeeded in marginalizing the largest regional leaders.

Terrorism Add-On (1/2)

Bagram hurts US-Afgani civilian relations and increases terrorism

The Atlantic 3/ 25

(White House and Military Clash over Bagram MAR 25 2010, 2:29 PM ET <http://www.theatlantic.com/international/archive/2010/03/white-house-and-military-clash-over-bagram/38034/>

U.S. military and White House officials are grappling with an important question in Afghanistan: How long will the U.S. hold on to the detention facility at Bagram Air Force base? Military officials have estimated [80 to 90 percent](http://www.usatoday.com/news/world/2009-11-19-afghan-jail_N.htm?csp=34) of the 750 detainees are candidates for release, usually because they are non-ideological or "accidental" combatants who pose no long-term threat to the U.S. Some detainees have already been [released](http://articles.latimes.com/2010/mar/19/world/la-fg-afghan-detainees20-2010mar20) as a show of goodwill. General Stanley McChrystal, the top ISAF commander in Afghanistan, has emphasized "the long-term goal of getting the U.S. out of the detention business" and warned that detention promotes anti-American sentiment. And yet, of the 576 detainees whose cases have been reviewed, only 66 have been released. The non-profit Inter Press Service, a human rights group, [reports](http://www.ipsnews.net/news.asp?idnews=50737) that the [shadowy](http://www.theatlantic.com/politics/archive/2009/12/the-special-ops-command-thats-displacing-the-cia/31038/) Joint Special Operations Command (JSOC) has moved to block or slow detainee releases. The standstill in detainee releases is curious because McChrystal is the former commander of JSOC and because he maintains [close ties](http://washingtonindependent.com/67136/special-operations-chiefs-quietly-sway-afghanistan-policy) to the authority on Bagram, Vice Admiral Robert Harward, who was formerly McChrystal's deputy. Presumably, McChrystal is allowing JSOC's block. This suggests that the U.S. is only postponing detainee releases temporarily. There are many possible reasons--lending Afghan courts sovereignty by allowing them to decide release dates, for example. But it's possible that the U.S. is holding the detainees as a bargaining chit in the ongoing reconciliation talks with Taliban and local leaders. If the U.S. is going to release the prisoners anyway, it might as well try to get something for it. Alternatively, the U.S. may be waiting to transfer the facility to Afghan control, which McChrystal has pledged to do, so that the beleaguered Afghan government gets the credit for releasing detainees. Either way, reducing the size and scope of Bagram detention could go a long way to building trust between Afghans and Americans

Terrorism Add-On (2/2)

Terrorism will lead to the collapse os civilization and the destruction of the world.

Hankuk 09

(Dennis Ray Morgan, **Hankuk** University of Foreign Studies, Yongin Campus - South Korea [**Futures**](http://www.sciencedirect.com.ezp-prod1.hul.harvard.edu/science/journal/00163287), [Volume 41, Issue 10](http://www.sciencedirect.com.ezp-prod1.hul.harvard.edu/science?_ob=PublicationURL&_tockey=%23TOC%235805%232009%23999589989%231515128%23FLA%23&_cdi=5805&_pubType=J&view=c&_auth=y&_acct=C000014438&_version=1&_urlVersion=0&_userid=209690&md5=7eaadd08919055b45011bba80bf06023), **December** 200**9**, Pages 683-693, World on fire: two scenarios of the destruction of human civilization and possible extinction of the human race)

In a remarkable website on nuclear war, Carol Moore asks the question “Is Nuclear War Inevitable??” In Section , Moore points out what most terrorists obviously already know about the nuclear tensions between powerful countries**.** No doubt, they’ve figured out that the best way to escalate these tensions into nuclear war is to set off a nuclear exchange. As Moore points out**,** all that militant terrorists would have to do is get their hands on one small nuclear bomb and explode it on either Moscow or Israel. Because of the Russian “dead hand” system, “where regional nuclear commanders would be given full powers should Moscow be destroyed,” it is likely that any attack would be blamed on the United States”

Israeli leaders and Zionist supporters have, likewise, stated for years that if Israel were to suffer a nuclear attack, whether from terrorists or a nation state, it would retaliate with the suicidal “Samson option” against all major Muslim cities in the Middle East**.** Furthermore, the Israeli Samson option would also include attacks on Russia and even “anti-Semitic” European cities   In that case, of course, Russia would retaliate, and the U.S. would then retaliate against Russia. China would probably be involved as well, as thousands, if not tens of thousands, of nuclear warheads, many of them much more powerful than those used at Hiroshima and Nagasaki, would rain upon most of the major cities in the Northern Hemisphere. Afterwards, for years to come, massive radioactive clouds would drift throughout the Earth in the nuclear fallout, bringing death or else radiation disease that would be genetically transmitted to future generations in a nuclear winter that could last as long as a 100 years, taking a savage toll upon the environment and fragile ecosphere as well**.** And what many people fail to realize is what a precarious, hair-trigger basis the nuclear web rests on. **Any** accident, mistaken communication, false signal or **“**lone wolf’ act of sabotage or treason could, in a matter of a few minutes, unleash the use of nuclear weapons, and once a weapon is used, then the likelihood of a rapid escalation of nuclear attacks is quite high while the likelihood of a limited nuclear war is actually less probable since each country would act under the “use them or lose them” strategy and psychology; restraint by one power would be interpreted as a weakness by the other, which could be exploited as a window of opportunity to “win” the war. In other words, once Pandora's Box is opened, it will spread quickly, as it will be the signal for permission for anyone to use them. Moore compares swift nuclear escalation to a room full of people embarrassed to cough. Once one does, however, “everyone else feels free to do so. The bottom line is that as long as large nation states use internal and external war to keep their disparate factions glued together and to satisfy elites’ needs for power and plunder, these nations will attempt to obtain, keep, and inevitably use nuclear weapons. And as long as large nations oppress groups who seek self-determination, some of those groups will look for any means to fight their oppressors”  In other words, as long as war and aggression are backed up by the implicit threat of nuclear arms, it is only a matter of time before the escalation of violent conflict leads to the actual use of nuclear weapons, and once even just one is used, it is very likely that many, if not all, will be used, leading to horrific scenarios of global death and the destruction of much of human civilization while condemning a mutant human remnant, if there is such a remnant, to a life of unimaginable misery and suffering in a nuclear winter.  In “Scenarios,” Moore summarizes the various ways a nuclear war could begin: Such a war could start through a reaction to terrorist attacks, or through the need to protect against overwhelming military opposition, or through the use of small battle field tactical nuclear weapons meant to destroy hardened targets. It might quickly move on to the use of strategic nuclear weapons delivered by short-range or inter-continental missiles or long-range bombers. These could deliver high altitude bursts whose electromagnetic pulse knocks out electrical circuits for hundreds of square miles. Or they could deliver nuclear bombs to destroy nuclear and/or non-nuclear military facilities, nuclear power plants, important industrial sites and cities. Or it could skip all those steps and start through the accidental or reckless use of strategic weapons

National Security Add-On

Winning the war key to national security and we have to have the afghans on our side  
Fox 09

(Is Obama's New Plan for Afghanistan a Winning Strategy? Wednesday, December 02, 2009 http://www.foxnews.com/story/0,2933,578871,00.html)

I think -- no, I don't agree with that statement. I think it is -- it is a swamp which we cannot drain, to assume that we can create a national government in Kabul. We should put the emphasis the other way around. We should try to create local governments and regional governments based on the various tribes and regional ethnic groups. And if they can create a viable system, then one can go on from there to have an effective national government. Of course, we should do our utmost for it not to be corrupt, but we cannot judge (ph) the success of what we're doing. We're not fighting for an Afghan government. We are fighting for the national security of the United States and the stability of a region which is essential to national security of the United States. And I'd would like to make another point. We talk a great deal about our NATO allies, and I'm delighted if they are giving more support. But there are other countries -- Russia, China, India -- that are directly affected by the danger of terrorist bases in Afghanistan. And as our strategy evolves, they have to be brought into not so much the military effort but the political effort to create a legal status for Afghanistan in the name of which the evolution can take place. I must say I don't like the fact that a deadline has been given for our effort, and I hope it is given as a hope, rather than as a commitment.

\*\*\*Human Rights Advantage\*\*\*

Human Rights Low

US Human Rights Cred Declining we’re on the tipping point- Laundry List

Weisbrot 2009 (Mike, Center for Economic and Policy Research, “Washington’s Lost Credibility on Human Rights” <http://www.cepr.net/index.php/op-eds-&-columns/op-eds-&-columns/washingtons-lost-credibility-on-human-rights/> Waldman)

The U.S. State Department's annual human rights report got an unusual amount of criticism this year. This time the center-left coalition government of Chile was notable in [joining other countries](http://www.valparaisotimes.cl/content/view/480/388/) such as Bolivia, Venezuela, and China – who have had more rocky relations with Washington – in questioning the "moral authority" of the U.S. government's judging other countries' human rights practices. It's a reasonable question, and the fact that more democratic governments are asking it may signal a tipping point. Clearly a state that is responsible for such high-profile torture and abuses as took place at Abu Ghraib and Guantanamo, the regular killing of civilians in Afghanistan and Iraq, and has reserved for itself the right to kidnap people and send them to prisons in other countries to be tortured ("extraordinary rendition") has a credibility problem on human rights issues. Although President Obama has pledged to close down the prison at Guantanamo and outlaw torture by U.S. officials, he has so far decided not to abolish the practice of "extraordinary rendition," and is escalating the war in Afghanistan. But this tipping point may go beyond any differences – and they are quite significant – between the current administration and its predecessor. In the past, Washington was able to position itself as an important judge of human rights practices despite being complicit or directly participating in some of the worst, large-scale human rights atrocities of the post-World War II era – in Vietnam, Indonesia, Central America, and other places. This makes no sense from a strictly logical point of view, but it could persist primarily because the United States was judged not on how it treated persons outside its borders but within them. Internally, the United States has had a relatively well-developed system of the rule of law, trial by jury, an independent judiciary, and other constitutional guarantees (although these did not extend to African-Americans in most of the Southern United States prior to the 1960s civil rights reforms).  Washington was able to contrast these conditions with those of its main adversary during the Cold War – the Soviet Union. The powerful influence of the United States over the international media helped ensure that this was the primary framework under which human rights were presented to most of the world. The Bush Administration's "shredding of the Constitution" at home and overt support for human rights abuses abroad has fostered not only a change in image but perhaps the standards by which "the judge" will henceforth be judged. One example may help illustrate the point: China has for several years responded to the State Department's human rights report by publishing its own report on the United States. It includes a catalogue of social ills in the United States, including crime, prison and police abuse, racial and gender discrimination, poverty and inequality. But the last section is entitled "On the violation of human rights in other nations."  The argument is that the abuse of people in other countries – including the more than one million people who have been killed as a result of the United States' illegal invasion and occupation of Iraq – must now be taken into account when evaluating the human rights record of the United States.  With this criterion included, a country such as China – which does not have a free press, democratic elections, or other guarantees that western democracies treasure – can claim that it is as qualified to judge the United States on human rights as vice versa. U.S.-based human rights organizations will undoubtedly see the erosion of Washington's credibility on these issues as a loss – and understandably so, since the United States is still a powerful country, and they hope to use this power to pressure other countries on human rights issues. But they too should be careful to avoid the kind of politicization that has earned notoriety for the State Department's annual report – which clearly discriminates between allies and "adversary" countries in its evaluations.

\*\*\*Prisons\*\*\*

Prison Reps Cards

The US has succeeded in keeping prisons in Afghanistan completely closed to human rights organization allowing for abuse above and beyond anything in Iraq or Abu Grahib.

Dwyer 2004 (ISR, “War Without End,” Sept/Oct,<http://www.thirdworldtraveler.com/Central_Asia_watch/WarWithoutEnd_Afghan.html>)

An open letter from the villagers of Lejay to the UN explains, "The Americans searched our province. They did not find Mullah Omar, they did not find Osama bin Laden, and they did not find any Taliban. They arrested old men, drivers, and shopkeepers, and they injured women and children."" Thousands of these civilians have been detained, imprisoned, and tortured as suspected terrorists. Many are taken to a military prison at Bagram air base, where they are held-often without any formal charges-until being released or sent to concentration camps at Guantánamo Bay. According to coalition forces, two thousand Afghans have been detained since the war-four hundred were being held without charges as of June." Many prisoners are subjected to what aid workers call "RPing," or "Rumsfeld Processing," in which their detention is never recorded. Recent reports have proven that the torture and intimidation tactics made famous at Abu Ghraib prison in Iraq under U.S. military supervision have been going on for years in Afghanistan. Last March, two former prisoners told the New York Times how up to 100 prisoners were "made to stand hooded, their arms raised and chained to the ceiling, their feet shackled, unable to move for hours at a time, day or night."" Syed Nabi Siddiqi, a former policeman who was detained without charges for forty-five days described how he and others were taken away blindfolded, made to kneel for long periods of time with hands cuffed behind their backs, forced to roll over every fifteen minutes during the night (to prevent sleep), attacked by dogs and photographed naked. As in Iraq, coalition military personnel used sexual humiliation as an intimidation tactic. Siddiqi describes his treatment in the hands of coalition forces: They were kicking me and beating me and shouting like animals at me. They took off my uniform .... Then they asked me which animals-they made the noise of goats, sheep, dogs, cows-I had had sexual activities with. They laughed at me. I said that such actions were against our Afghan and Islamic tradition, but they asked me again, "Which kind of animals do you want to have sex with?" Then they asked me to stand like this [he indicates being bound to a pole] and beat me with a stick from the back and kicked me. I still have pains in my back as a result. They told me, "Your wife is a prostitute."" Other prisoners have reported military personnel touching their genitals and forcing them to defecate in front of guards, who stood throwing stones and laughing. One prisoner, Noor Aghah, was forced to drink twelve bottles of water without being allowed to urinate during his interrogation." So far, five detainees have died in military prison-three under "suspicious circumstances." Of these, two deaths at Bagram have been classified as homicides. One autopsy conducted by a pathologist and U.S. officer showed "blunt-force injuries" on the victim's lower extremities. Another victim, Abdul Wali, was a former officer who voluntarily showed up for questioning. He died after being interrogated by a private contractor working for the CIA." The extent of torture arid mistreatment at Bagram and other prisons is not known since access to the facilities is severely limited. The Red Cross has only partial access at Bagram; other international human rights organizations like Amnesty International are completely denied access. And Bagram is not the only prison-there are nineteen detention centers operated by the United States around Afghanistan that have never been monitored by any human rights group or international agency. The similarity between treatment of prisoners at Bagram and Abu Ghraib is no mere coincidence. Captain Carolyn Wood of the 519th military intelligence battalion was in charge of interrogations at both Bagram air base and Abu Ghraib prison, where she was sent last year. While it is not known what tactics she condoned in Afghanistan, human rights groups think that they were even worse than in Iraq, where, according to the Pentagon, her official "rules of engagement" included "sleep and sensory deprivation, stress positions, dietary manipulation, and use of dogs. If anything, Afghan prisoners have even less protection than those in Iraq. As Human Rights Watch representative John Sifton explained, It should be noted that the detention system in Afghanistan, unlike the system in Iraq, is not operated even nominally in compliance with the Geneva conventions. The detainees are never given an opportunity to see any independent tribunal. There is no legal process whatsoever and not even an attempt at one. The entire system operates outside the rule of law."

Counterplan Solvency

The US should engage the Independent human rights commission to rein in prisoner abuses- solves 100% of the case

Synovitz 2005 (Radio Free Europe, <http://www.globalsecurity.org/military/library/news/2005/05/mil-050523-rferl01.htm>)

Nader Ahmad Naderi, spokesman for the Afghan Independent Human Rights Commission, says it is time for the U.S. military to allow human rights monitors inside the Bagram detention center. He also says a prosecutor should be appointed who is independent from the U.S. military or U.S. government.  "The best source for investigating these cases includes granting access to the Human Rights Commission to do monitoring. But for the [criminal] investigation, I think an independent prosecutor is needed to go and to investigate these cases. [That is] because none of those people who may be involved in those misbehaviors -- or somehow in   
torturing those [detainees who died in Afghanistan] -- have been brought to justice or to accountability. [They have] have not been prosecuted so far," Naderi says.  Sam Zarifi, an Afghan expert for the U.S.-based nongovernmental organization Human Rights Watch, says it also is time for Washington to show Afghans that such abuses are not tolerated.

\*\*\*Racial Profiling Advantage\*\*\*

Dichotomies Internal Link

This imagery recreates the dichotomy between the supreme and the servile

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Indeed, in the United States the circulation of images of tortured bodies has a peculiar history tied to antiblack racism and vigilante violence in the form of lynchings. The depictions of torture in the Abu Ghraib detention center, particularly those of hooded figures posed with a noose around the neck, mirror the imagery of lynchings. In both instances, violence by whites against men of color produces an abject racialized body. By comparing the regime of looking established by lynching photos with the circulation of Abu Ghraib images, we can learn a great deal about ongoing processes of racialization.[3](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn4) Lynchings disciplined and contained (primarily) black populations after emancipation while quelling white anxieties about social equality. As extrajudicial methods of punishment often against innocent individuals, lynchings entrenched white supremacy and perpetuated an image of black people as property that whites could use as they saw fit. As a mechanism of social control, lynchings contained African Americans, segregating them, fixing them by fear, limiting their mobility and public sphere participation, and constraining their sexuality. The circulation of lynching photos extended a dire warning about the limits of race and place in the United States, well beyond the geographic confines of the lynching locales. Anxieties in the United States have once again been mobilized. In addition to pervasive concerns about American vulnerability in the aftermath of the September 11, 2001, tragedy, the U.S. National Intelligence Council ([2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf54)) has cataloged multiple anxieties about the ways that globalization empowers China, India, political Islam, and terrorists, thus enhancing third world challenges to Euro‐American domination and related anxieties about the inability of U.S. military forces to quell the violence in Iraq or Afghanistan. The circulation of images of the torture of detainees in the context of the war on terror can be read as part of a violent and brutal attempt to reestablish and continue Western rule.[4](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn5) Regardless of the reasons for their circulation, the visual regime of domination constructed by the global circulation of the torture photographs is deeply imbricated in modes of racialization that affirm the superiority of the torturers by producing the servile, compliant, raced bodies of Muslim men. To explicate these processes of racialization, I draw upon the insights of Kalpana Sheshadri‐Crooks, who develops a theory of race as a “regime of looking” ([2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 2) by creatively extrapolating from Jacques Lacan. To demonstrate how torture and cruel, inhumane, and degrading treatment can produce a racialized visual regime, I will then compare the Abu Ghraib photos with lynching photography from the early twentieth‐century United States. This article concludes with a discussion of torture as gendered, raced, and sexualized decerebralization, that is, as part of the process of turning subjects into objects. Drawing on the work of Frantz Fanon, I show how the new racialized subjects and objects produced through torture and the circulation of torture photography take root in our subjectivities as new elements of an emerging racial grammar.

Race Internal Link

This re-entrenches the logic of race as a ‘practice of visibility’

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Over the past four decades, critical race theorists in the natural sciences, the social sciences, and the humanities have refuted the mistaken view that race is a biological category.[5](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn6) Despite multiple demonstrations that race is a social construct without any concrete foundations in biology or nature, notions of racial embodiment persist. If race is not written on the body in immediately legible ways, how then do we come to see race? Sheshadri‐Crooks argues that race is a “practice of visibility” and a “regime of looking” that can neither “be reduced to the look” nor explained as “scientific, anthropological or cultural theory” ([2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 2). She argues that “the regime of visibility secures the investment that we make in ‘race’ in ways that cannot be easily surrendered” (2). To understand how race works, we need to understand it as a “system of categorization” that, once in place, “organizes differences between humans in predetermined ways” (4). A symbolic rather than natural order of race governs seeing. Operating on the psyche and structuring perception, the symbolic order has palpable effects: “We believe in the factuality of difference in order to see it, because the order of racial difference is an order that promises access to an absolute wholeness of its subjects—white, black, yellow, or brown” (5). Sheshadri‐Crooks suggests that the regime of visibility constructed around race affords fantasies of wholeness akin to those predicated on sexual difference. Following Lacan, Sheshadri‐Crooks notes that critical aspects of psychic development are triggered by absence, depend upon lack, and are fueled by incessant misperception. Akin to the elusive wholeness promised by sexual difference and sexual union, “the signifier Whiteness … promises a totality, an overcoming of difference itself. For the subject of race, Whiteness represents complete mastery, self‐sufficiency and the *jouissance* of humanness” (Sheshadri‐Crooks [2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 56). Unlike sexual difference, however, “race identity can have only one function: it establishes differential relations among the races in order to constitute the logic of domination” (7). Based on exclusivity, exceptionalism, uniqueness, and the pride of being better, race has “no other reason to be but power” (7). Representing the power of being itself, “it is the promise of being more human, more full, less lacking. The possibility of this enjoyment is at the core of ‘race’” (7). Race is a practice of visibility and a regime of looking, but lodged within the psyche and governing perception, it should not be reduced to mere looking: “Racial visibility … is that which secures the much deeper investment we have made in the racial categorization of human beings” (Sheshadri‐Crooks [2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 8). Indeed, racial categorization creates a critical difference between the seer and the seen, between the seeing subject and the object of the gaze: “The subject of the imaginary is constituted as seeing by the signifier, whereas the subject of race is constituted as seen, the subject of the gaze, through a certain logic of the signifier” (38). Race is related to class and sex but has its own distinct structure and trajectory of power, which operate by positing biological or second‐nature attributes. Thus race is accorded far more permanence than class, for example. Although class positions are often intractable, they are relatively mobile when compared with race. If class is cast in terms of biology, blood, or stock, “it lapses into race” (Sheshadri‐Crooks [2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 4), suggesting an inner, hidden quality passed on to all who are born to those who are classed/raced. Family, reproduction, and kinship are integral to the notion of racial differences. Indeed, Sheshadri‐Crooks argues that race as the essence and immutable determinant of social worth underlies many surface claims concerning culture, ethnicity, sex, or class. Race “transmutes its historicity, its contingent foundations, into biological necessity” through a process that exploits sexual difference (21). Race is a regime of looking that moves from surface to depth. As Ann Laura Stoler has pointed out, not only is racism a “visual ideology” but also “Euro‐American racial thinking related the visual markers of race to the protean hidden properties of different human kinds” ([1997](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf52), 205). The surface is where visibility first matters, triggering associations of surface features with moral dispositions and character traits. Through this regime of looking we “reproduce the visibility of race as our daily common sense, the means by which we ‘tell people apart,’ a logic that is best enshrined in the Canadian phrase ‘visible minorities’” (Sheshadri‐Crooks [2000](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf49), 19). Entrenched in the psyche and reproduced in daily interactions, the regime of visibility makes race appear immediate, transparent, and unalterable.

Torture is Dehumanizing

Torture is Dehumanizing

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The process of decerebralization—an integral aspect of torture—entails physical and psychological practices that turn subject into object (Carby [2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf8)). Psychological and mental cruelty, humiliation, shaming, religious and cultural defilement, sexualized violence, and attacks on masculinity and femininity are all elements that further remove the detainee from the terrain of the human. The notion of ghost detainees, which refers to those who are outside of legal protections and public knowledge, exudes a sense of this depersonalized empty presence stripped of self. As John T. Parry ([2005](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf33), 533) suggests, “when one is a ghost … one is already separate from one’s body, not to mention from one’s family, community, and other support networks. … The ghost … is by definition hidden, exceptional, and dominated.” The “epidermalization of inferiority” is not the only means through which torture turns subject into object (Fanon [1967](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf17), 13). Fanon’s astute analysis of the mechanisms of epidermalization or racialization drew upon the French torture of Algerians as well as the effects of colonial occupation on the psyche of the colonized. In *Black Skin, White Masks* ([1967](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf17)), Fanon provides detailed accounts of the phenomenology of racialization, rooted in regimes of visibility entrenched in interpersonal encounters through which the French interpellated the “Negro” as an abject object, altogether other. Yet whether in the context of colonial encounter, lynching, everyday practices of racism, or torture, decerebralization is a primary manifestation of the racialization of people whose human status is displaced by a profound objectification.

Reduction of Muslim Internal Link

Torture in the War on terror reduces the muslim to less than human creating a new racist, patriarchal order

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Carby ([2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf8)) notes that the publicity of lynchings both secured white power and ensured that black populations remained fearful, segregated, and limited in their mobility and power. Apel suggests that “the lynching photographs served as a means of continuing social control, extended tools of terror which ultimately justified the deeds they represented as protecting whiteness, which was code for America itself” ([2005](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf4), 90). There are important parallels between the circulation of photos taken at Abu Ghraib and the circulation of lynching photographs. Images that pose victims before multiple, anonymous onlookers while depicting emasculation, castration, and other forms of sexual attack participate in particular forms of decerebralization. Photographing detainees in their abject state and publicizing that abjection racializes the detainee as the suffering, passive, decerebralized object whose terrorist acts have necessitated a powerful response by the U.S. military, charged with the defense of the nation.[14](http://www.journals.uchicago.edu/doi/full/10.1086/513022#fn15)Circulating images of detainees surrounded by triumphant onlookers resurrect only partially repressed historical consciousness of lynchings. Within this charged racial context, the detainee’s punishment appears as deserved as that of the lynched black body. Indeed, the Muslim detainee is blackened in a regime of visibility in which blackness is the marker for the abject or nonhuman. The incorporation of sexual violation into the torture of detainees resurrects modes of emasculation and feminization that resinscribe rigid regimes of white heteronormative sexuality as the property of white Westerners and deviance as the hidden propensity of the orientalized Muslim terrorist. The circulation of the Abu Ghraib photographs does not merely repeat, reiterate, or reconfigure old racial ideas. By circulating the pain inflicted on Iraqi detainees before a global audience, the Abu Ghraib photographs produce new racialized objects on a new world stage. Invoking the visual authority of the lynching image, the Abu Ghraib photos unleash the power of visuality and justifiable violence onto the tortured body. Constructed as terrorists, Muslim men held in detention lose all purchase on innocence, legal rights, and international covenants. Within the perverse frame constructed by this racialized regime of looking, punishment by white captors proves the criminal propensities harbored within the terrorist body. Documented as threat by free‐floating Internet images, the detainees deserve any degree of torture from the defenders of Western liberal democracy. The contradictions manifested in the lynching photos are resurrected in the images from Abu Ghraib. “The relationship of power to helplessness, citizen to outsider, privilege to oppression, subjecthood to objecthood, and community to outcast” (Apel [2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf3), 7) are played out in these photos in the form of racialized bodies tortured by morally upright white soldiers under the approving gaze of triumphant onlookers. The complex interpellations proffered by orientalism, terrorism, lynchings, and whiteness mingle in the Abu Ghraib photos to produce a new regime of visibility. The photographs exhibit and simultaneously produce visible racialized difference for the viewer. Whites in military garb pose as conquerors. Clothed, armed, and smiling, they stand guard over naked, prostrate, sexualized, wounded, and helpless detainees. Standing powerfully beside, behind, and sometimes on top of prisoners, holding leashes and directing the scene, the men and women in the U.S. military are masculinized. They are the agents of the law defending against those who are outlaws. They are agents of a legitimate state empowered to use the law to serve national interests and military necessity. By contrast, the victims are arrested under conditions of lawlessness—albeit lawlessness created by the U.S. invasion. They are positioned as suspects on the basis of their names, nationality, and religion. Violated while in detention, they have been made abject, and under the racialization’s peculiar regime of visibility, they are blamed for their own abuse. Their Muslim religion is interpellated as deviant masculine lawlessness, as threat in need of containment. Circulating globally, the photos of their abjection contain a message “as old as racism itself: this is the material evidence of the wielding of power, of the performance of conquest over an enemy” (Carby [2004](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf8)). Carby has noted that “in the shadow of the flag, of the Pentagon, and of an imperial democracy, lies the other’s tortured body.” I would add that the new racial grammar erases any possible empathy for that tortured body. Like the lynched black bodies in the early twentieth century, the tortured Muslim is situated in a regime of visibility that lodges responsibility for the torture beneath the racialized epidermis of the torture victim. Spectacles of power, such as those embedded in the photographs of Muslim men being humiliated, sexually abused, brutalized, and tortured, may serve domestic purposes. Joseph Hart ([2005](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf25)) has suggested that the visual representation of suffering inflicted through torture is like a “new psychotropic” that quells racial anxiety. These racialized anxieties are national anxieties, and if we take the nation as the embodiment of masculine values of virility and potency as Cynthia Enloe ([1990](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf16)) and Jan Jindy Pettman ([1996](http://www.journals.uchicago.edu/doi/full/10.1086/513022#rf34)) have suggested, these are also anxieties about the state of masculinity in the twenty‐first‐century United States. In an effort to quell white racial anxiety, war and the torture that accompanies it produce new racialized regimes of looking that deploy old racisms for new political ends.

\*\*\*Neo-liberalism Advantage\*\*\*

Explanation of the Neo-liberal K Argument

Indicts discourse of safety-

There ev is rooted in the system so only focuses on one approach

There disads assume the past desires, we have to overcome these

We are full of desires pleasures and love, but these feelings are controlled by the state. Constantly they are played upon to advance a neoliberal agenda that renders certain populations dispensable in the name of security. For example, in the homosexual community there has been a movement to legalize sodomy. The success of this movement was followed by the incoroporation of the homosexual into a ‘homonormative’ movement which eliminates the ‘dangerous’ and ‘radical’ portions of LGBT in order to advance a heteronormative agenda under the guise of liberalization. Furthermore, in the past decades we have constructed a prison system to sustain capital. In the prisons reside those who are excluded from the neoliberal system. They are exploited in order to sustain the system. Additionally, the government uses rhetoric of security and threat construction to justify imperialistic genocide. The war in Afghanistan would be an example. The government played off the fear incited by the events of September eleventh to invade Afghanistan. They created a muslim other that became dispensable. We set up Bagram as a point of further sustainment of the system. As we try to incorporate Afghanistan into the liberal democratic capitalist order, we are faced with resistance. This resistance or excess is then put in a state of lockdown. To overcome this, we must engage the system head on. By closing Bagram we would be rejecting this security rhetoric and realigning our desires away from the neoliberal state, thus removing its power over us.

Cool Tricks

* Disadvantages can be discounted as the rhetoric that justifies our imperialistic genocide. It is precisely their calls to action in the face of danger that we must resist if we hope to breakdown the system
* There evidence should be viewed us suspect. The neoliberal system has coopted there ability to look past their current needs and desires and trapped there frame of mind into racial and sexual binaries.
* Kritiks can easily be permuted because the NGOizing of ‘radical politics’ that exists in the status quo only exists because of the homonormatization that exists in neoliberalism. Our break down of the system is the only way for truly radical politics to exist that break away from the systems current construction of binaries.
* Kritik impact claims can be discounted because their idea of social change is just an attempt to reincorporate us into the system.

Neo-Liberalism Internal Link

The neoliberal state makes concessions to protect its system of structural violence seducing us to make us advocates for it

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

As the killing of those at the margins of liberal and neoliberal sovereignty continues to be glamorized and fetishized in the name of ‘democracy,’ we are confronted with urgent questions about the ways in which life, death, and desire are being (re)constituted in the current political moment. The intensification of carnage wrought by empire has brought with it a renewed thrust to draw in precisely those who are the most killable into performing the work of murder. As we are seduced into empire’s fold by participating, often with glee and pleasure, in the deaths of those in our own communities as well as those banished to the ‘outsides’ of citizenship and subjectivity, we must ask: How are these seductions produced and naturalized?1 What forms of (non)spectacular violence must be authorized to heed the promises being offered by empire? These are the central problematics this paper engages.2 In 2003, a host of U.S. LGBT (lesbian, gay, bisexual, transgender) organizations lauded the Supreme Court’s six to three majority in *Lawrence and Garner v. State of Texas*, a ruling that rendered sodomy laws unconstitutional, calling it “a legal victory so decisive that it would change the entire landscape for the LGBT community.”3 One major LGBT legal advocacy organization stated, “the good feeling we get from watching *Will & Grace* has been transformed into social legitimacy and legal protection that LGBT people can take to the bank.”4 Anthony M. Kennedy, writing for the court majority, expressed the unconstitutionality of the 1986 *Bowers v. Hardwick* case by stating, “When homosexual conduct is made criminal by the law of the state, that declaration in and of itself is an invitation to subject homosexual persons to discrimination both in the public and in the private spheres.”5 Pregnant with the promise of democratic freedoms and futures severed from histories of colonization and other forms of violence and degradation, much of the mainstream LGBT movement rejoiced at the “decriminalization of gay sexuality” with no mention of the continued forms of conduct that are made criminal, and thus remain subject to statesponsored and state-sanctioned violence in both the public and private spheres. The expansive effort to repeal sodomy laws coincided with, and was bolstered by, a national push on the part of a variety of LGBT organizations to legalize same-sex marriage. Both campaigns were launched under the banner of privacy rights — the National Gay and Lesbian Task Force’s (NGLTF) campaign to repeal sodomy laws was aptly dubbed the Privacy Project. Not coincidentally, such efforts were spearheaded by a class of queer subjects in the leading strata of the neoliberal world order, those who “benefited” most from the increasing dominance of free market capitalism, structural adjustment policies, and the privatization of public space and welfare apparatuses.6 Both campaigns, fought in the name of equality, proved instrumental in consolidating precisely the political and material conditions they purportedly sought to contest. In the case of sodomy laws, mainstream LGBT organizations consisting largely of media strategists, lobbyists, and attorneys — a far cry from earlier incarnations of queer social movements — heralded the “decriminalization of gay sexuality,” all the while leaving unnoted and undisturbed the ongoing criminalization and pathologization of “other sexualities.” Meanwhile, such desires continued to be rendered deviant by the U.S. state. We see this contradiction embodied in a statement from the executive director of NGLTF following the *Lawrence* decision: “In 2003, it’s appalling that states would still argue that there’s nothing wrong with the police kicking down the bedroom doors of a gay or lesbian couple and arresting them for having intimate relations with the person they love.”7 The statement makes clear which doors will and should continue to be kicked down, and which forms of intimate relations remain outside the bounds of statesanctioned love. This newly accorded privacy (part and parcel of constituting neoliberal “individual liberty”) annexes state repression to a perverse past by embracing a more tolerant future. In the case of gay marriage, the push for state-sanctioned kinship reconsolidates the exclusionary practices of the institution of marriage. This move recodes “good” forms of national kinship (monogamous, consumptive, privatized) while punishing those that fall outside of them, particularly those forms of racialized and classed kinship that continue to be the target of state violence and pathology. Thus both campaigns actively court a limited and precarious equality in exchange for leaving the foundational antagonisms of capitalist liberal democracy unscathed.8 If it is no longer the bedroom of a “gay and lesbian couple” arrested for having “intimate relations with the person they love,” whose doors, then, will continue to get kicked down? And, precisely, which “gay and lesbian couple” is even conceivable in this statement? Eluding the grasp of the looming prison – police apparatus, the newly christened “love” of this imagined “gay and lesbian couple” can only come into relief in contradistinction to those forms of desire and intimacy whose deviance renders them commonsensical property of the state. It is no coincidence, then, that the police are being called up to legislate good and bad love during this political moment. To be sure, the ruling coincides with two decades of the rapid proliferation of an increasingly privatized and corporatized prison apparatus, police state, and militarized regime of repression. During the past three decades of neoliberal (re) consolidation, the number of mostly brown, black, and poor people locked away in the U.S. system alone has increased nearly three hundred – fold.9 As we will argue, it is against this backdrop of, borrowing the phrase from Julia Sudbury, “global lockdown” that the “love” mentioned above becomes imaginable and attainable.10 In this essay, we wish to follow Sudbury in expanding analyses of “global lockdown” to “other spaces of confinement” to account for the affective economies of the diffuse networks of punishment, mass warehousing, and criminalization that come to constitute overlapping carceral landscapes.11 By “affective economies,” we refer to the circulation and mobilization of feelings of desire, pleasure, fear, and repulsion utilized to seduce all of us into the fold of the state — the various ways in which we become invested emotionally, libidinally, and erotically in global capitalism’s mirages of safety and inclusion. We refer to this as a process of seduction to violence that proceeds through false promises of an end to oppression and pain. It is precisely these affective economies that are playing out as gay and lesbian leaders celebrate their own newfound equality only through the naturalization of those who truly belong in the grasp of state captivity, those whose civic redemption from the category of the sodomite or the criminal has not been promised/offered (which one, it might not matter . . .) by the Supreme Court. It is precisely the aforementioned “good feeling” strategically deployed through homonormativization — mobilizations that barely mask the bloody, violent consequences of neoliberal privatization, the mass warehousing and liquidation of mostly brown and black bodies, and of imperial(ist) war — that we wish to locate alongside the pleasure and glee that we were all compelled to perform in the wake of Saddam Hussein’s execution. It is this circulation of desire and relief continually shored up in support of the relentless lockdown and torture of prisoners in both declared and nondeclared sites of global war.

Perm Solvency Card

This seduction prevents truly radical politics leaving the system unscathed

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

Importantly, as we shall argue, we must locate what many have called “the homonormative turn” within this broader (heterogeneous) imperial logic: following the traumas of state-sanctioned repression of queer communities, the creation and obliteration of new outsides become the answer for ongoing pain and devastation. As exemplified in the U.S. state-supported HIV/AIDS pandemic — and the broader war on the poor, people of color, and dissidents launched in the wake of the radical social movements of the 1960s and 1970s — we are told that only an insatiable appetite for annihilation could soothe the pains of our pasts. We would thus locate the mobilization of highly individualized narratives of bourgeois belonging and ascension within a larger promise project that offers to some the tenuous promise of mobility, freedom, and equality.18 This strategy is picked up in a privatized, corporatized, and sanitized “gay agenda” that places, for example, gay marriage and penalty-enhancing hate crimes laws at the top of its priorities. This also helps us to understand the ways in which revolutionary and redistributive yearnings that would challenge the foundations of the U.S. state, capital, and racial relations have been systematically replaced with strategies for individualized incorporation into the U.S. moral and politico-economic order. It is this promise project that has been crucial in rerouting so much of queer politics and longing from “Stonewall to the suburbs.”19

Securitizing Rhetoric causes Imperialism

Securitizing Rhetoric reinscribes imperialist logic allowing for the prison

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

What bodies, desires, and longings must be criminalized and annihilated to produce the good queer subjects, politics, and desires that are being solidified with the emergence of homonormativity? As we have already suggested, it is a highly privatized, monogamous, and white(ned) docile subjectivity that has been decriminalized and ostensibly invited into the doors of U.S. national belonging through recent shifts in the gendered and sexual order. As we have also suggested, it is not only sexual and gendered arrangements that have been rendered flexible in the wake of neoliberalization but an entire retooling of the possibilities for life that is attempted through a neoliberal narrative of private rights, peace, and security. This move works hand in hand with a deeply racist and imperialist symbolic, affective, and material order that increasingly requires the soldiering, gatekeeping, and prison-guard labor of socalled formerly and currently marginalized subjects to this order.

Perm Solvency Card

Seductive Strategies of Capital kill Alt Solvency- only a perm solves

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

With this analysis in mind, we argue that the homonormative turn must be located within a larger imperial project of promises and nonpromises that, while contingent on incitements to fantasy and the mobilization of desire, cannot be confined to questions of “queer politics” as such. It is thus critical to connect various forms of homonormativization that fall outside of what is commonly identified as “the homonormative” — or even “the sexual” — to expose how this strategy of seduction as an affective calling is issued in varied and contradictory sites. For instance, as critical postcolonial and women of color feminists have pointed out, many social movements in the process of acquiring funds have “NGOinized” themselves, albeit contradictorily, as a “non-profit-industrial-complex” has been built up. In exchange for funding, this critique argues, NGOization has served to reroute radical political goals to desires for legitimacy, professionalization, and (relative) power.26 Thus it is not only queers in the first world context whose intimate desires, feelings, needs, and hopes are sites of value for empire and neoliberal capitalism to draw into their fold, but all of us.27 In these instances, seduction toward something better promises subjects an end to pain, marginalization, and violence in exchange for being recognized as legitimate subjects who can potentially participate in global capitalist relations and its futures — collusion becomes the cost of belonging. Lest we slip (back) into the realm of the hated, the despised, the killable, and the disposable (that is, if we ever had a chance to leave), we must actively support and often embody the threat of force that lies on the other side of this tenuous promise, or so the logic goes.

Cap K Link Turn

The prison is the ultimate site of capitalisms social reproduction

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

We now turn to the threats of pure force and discipline that go hand in hand with the newfound freedoms of empire’s (non)promise projects. In her introduction to the anthology *Global Lockdown*, Sudbury offers an understanding of lockdown to connect diffuse and varied networks of captivity, punishment, and mass liquidation with transnational practices of empire-building and neoliberal globalization: ‘“Lockdown’ is a term commonly used by prison movement activists to refer to the repressive confinement of human beings as punishment for deviating from normative behaviors. Although prisons and jails are the most visible locations for lockdown, the term encourages us to think about connections with other spaces of confinement such as immigrant detention centers, psychiatric hospitals, juvenile halls, refugee camps, or Indian boarding schools.”40 In this foregrounding passage, Sudbury seeks to create analytical and political possibilities for bringing together various spaces and technologies of confinement that discipline nationally, racially, psychically, and culturally “aberrant” subjects, or those, as she will later theorize, who are “surplus or resistant to the new world order.”41 Sudbury further elaborates on theorizations of the slavery-prison continuum, which have been compellingly argued by W. E. B. Du Bois, Angela Davis, and Joan Dayan. These scholars and activists, among others, have posited that in the wake of the failed project of Emancipation, a vast network of cultural, legal, and politicoeconomic apparatuses were inaugurated to (re)criminalize blackness and ensnare black subjects within intensified forms of punishment, confinement, and expropriation. These included the Thirteenth Amendment’s recodification of slavery in the prison, convict lease systems, black codes, paramilitary terror, and increasingly complex systems of captivity and servitude to extract profit from locked-up black and brown bodies. As the legal scholar Guyora Binder has argued, if we expand our definition of slavery beyond a specific iteration of forced labor and instead look to the culture, custom, and institutions of race themselves, it becomes more difficult to assert that the project of Emancipation has ever been completed.42 Additionally, as Linda Evans, Eve Goldberg, Christian Parenti, and Ruth Wilson Gilmore have argued in their respective works, in the era of globalization, the U.S. government’s successive wars on drugs, poverty, crime, and terror have consolidated a prison industrial complex in which transnational corporations run globalized for-profit prisons, manufacture federal and local military- and law-enforcement technologies, expropriate prison labor, and bid for multibillion-dollar contracts for prison construction.43 These analyses foreground the multiple, overlapping private, public, national, and international investments in the mass lockdown of poor people and people of color transnationally, and the naturalized and strengthened long-term lockdown of black people within U.S. borders. Many of these theorizations of the slavery-prison continuum and of the expansion of the prison industrial complex help us articulate how global lockdown not only naturalizes but also *produces* capitalist racial, gender, national, and sexual social formations. In this way, global lockdown and its technologies function as central sites for ontological production, for *making* subjects on all sides of prison walls: those who can and must be killed, warehoused, and watched, and those whose civic duty requires their complicity in the killing.

Genocide Internal Link

The prison sanctions state genocide in the name of freedom by creating a racialized other

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

The prison, thus, cannot be understood as outside of social production, but rather as foundational to it. In *Are Prisons Obsolete?* Angela Davis shows how the prison functions as a mode of social production through her analysis of the “human surplus” produced at the confluence of an intensified capitalist economy and the mobilization of white supremacist imaginaries: In the context of an economy that was driven by an unprecedented pursuit of profit, no matter what the human cost, and the concomitant dismantling of the welfare state, poor people’s abilities to survive became increasingly constrained by the looming presence of the prison. The massive prison-building project that began in the 1980s created the means of concentrating and managing what the capitalist system had implicitly declared to be a human surplus. In the meantime, elected officials and the dominant media justified the new draconian sentencing practices, sending more and more people to prison in the frenzied drive to build more and more prisons by arguing that it was the only way to make our communities safe from murderers, rapists, and robbers.44 In the wake of the neoliberal gutting of an already precarious and punitive welfare state, the prison stepped in to produce, mark, and manage human surplus. It is through the mobilization of racist sexualized fears of “murderers, rapists, and robbers” and through misguided yearnings for safety that the prison binge of the 1980s and its progeny *(re)produce* subjects who must be locked down, as well as those who must do the locking. These same economies of panic and security legitimize the systematic dismantling of revolutionary social movements that oppose state repression through the mounting use of torture, imprisonment, disappearance, and massacre,45 both within and outside of the United States, and a litany of technologies of antiblack, anti-immigrant, and anti-poor terror narrating the history of racial state formation including lynching, execution, and rape. Continuing her line of thought, Davis argues that the prison operates to naturalize and intensify the generalized violence deployed by the state and its citizens against communities marked as criminal, specifically black, Latino, Native, and poor communities, as well as poor and racially pathologized communities in the global South. In particular, she writes, “prison is a space in which the threat of sexualized violence that looms in the larger society is effectively sanctioned as a routine aspect of the landscape of punishment behind prison walls.”46 In this way, the widespread sexual abuse of people in prison, and particularly women, queer people, and transgender people of color, emerges not as exceptional, but rather as indicative and productive of a larger regime of gratuitous force that marks bodies as surplus *through* the use of violence and imprisonment. Sexualized violence against those in lockdown should thus not be understood as “cruel and unusual” spectacles aberrant to the political order, but rather as *foundational to it*, and as central to the production of civil society as well as its outsides.47 This is a move difficult to understand if we do not pay attention to how feelings are mobilized to garner legitimacy for the prison project. The construction of those in lockdown as “murderers, rapists, and robbers” and the pervasiveness of sexual violence in prisons thus should not be seen as coincidental, but rather as indicative of the powerful imbrications of desire, fear, and safety in the production and disposal of those who are “resistant or surplus to the new world order.” Just as we have argued that promises of belonging, value, recognition, and worth are issued to certain marginalized subjects, it is always on the ground of other (non)subjects. Heeding the same logics of expendability, once again a promise for safety and happiness can only be issued as a simultaneous call for murder and human demolition. This is but one of the central affective economies that produces the prison industrial complex as a seductive facet of our collective common sense. Through the mystifying narratives of “ ‘crime and punishment”’ and “ ‘law and order,”’ the prison is offered as an end to pain and as a catch-all solution to violence of all kinds. The prison promises citizens and subjects a future filled with freedom, security, and safety. Individualizing pain and harm such that they might be reduced to “crime” and “perpetrators,” the prison promises safety, order, and redress severed from the persistence of structural murder and the exploitation fundamental to the capitalist democracy itself. Importantly, the futures that global lockdown promises its docile disciples can only be imagined through the unending creation and preservation of outsiders, nonsubjects, nonfutures, and nonhumans. In effect, the citizen-subject cannot be free or perhaps even alive without the captivity and (social, corporeal, and civic) death of the noncitizen, nonsubject, and those cordoned off to the realm of human surplus or, as Davis calls it, “detritus.”48

Dispensability Impact

Through the prisons promise game, certain populations are rendered dispensable

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

We understand the promise project playing out through global lockdown in a variety of ways, from ongoing prison expansion efforts to soothe the crisis of prison overcrowding and fatal prison conditions, to the proliferation of citizen-led reformist measures in the name of rehabilitation and redemption, to our daily reliance on police as the primary way we might feel safe. To return to the site of (recognizable) queer politics, penalty-enhancing hate crimes legislation is proposed and supported as a solution to systemic transphobic and homophobic violence. In these campaigns, the prison offers the seductive promise of security if we might authorize and support the ongoing roundup and lockdown of subjects marked as threatening. As the HRC advertisement demonstrated, safety can only be called into being through a hypernationalism that requires the cordoning off and disposal of those deemed criminal, enemy, and surplus. It is specifically through the sexualized violence inherent in being “brought to justice” that enables the end of pain offered by global lockdown. Very clearly, then, the neoliberal empire has quite effectively commandeered our affective yearnings for safety, security, redress, and peace and collapsed them with carnage, punishment, and confinement such that they might appear synonymous. It should come as no surprise, then, that so many of the gains made by formerly marginal subjects over the past many decades have been simultaneous with intensified forms of violence and abjection against surplus populations. It is precisely through these forms of aggression that those gains have been made possible.49 Global lockdown thus functions as one of the looming underbellies and conditions of possibility of the (un)freedoms and (non)futures being promised by neoliberal empire. Consigning the collective traumas of slavery and colonization to a remote and irrelevant past while drawing on their logics to instantiate its rule, global lockdown shows itself to be neither cruel and unusual nor exceptional, but rather as foundational. Importantly, these (un)freedoms and (non)futures carry very different promises and pleasures depending on our relationship to the human surplus motoring the global political economy. Global lockdown, then, is not simply the newest outside, but quite literally the material redefining off what life can even mean in the wake of so much “necessary” death.

Cap Link Turn/Solvency Card

Closing Bagram approaches our desires head on- it is the only way for true radical revolution

Agathangelou 2008, (Anna, Professor of Political Science @ York University, Radical History Review <http://www.makezine.enoughenough.org/intimateinvestments.pdf> Waldman)

We have thus far argued that across diffuse spaces and moments — the homonormative turn, the neoliberalization of the economy, the war on terror, and global lockdown — we see different dimensions of a promise project, which is also a project forever seeking to (re)consolidate empire. On the one hand, there are those for whom subjectivity, capital, and satiating pleasures and rights are being forever promised. This occurs, we argue, at the expense of compliance with, or perhaps distraction from, the larger structural underpinnings of social relations and processes. On the other hand, there are the (non)subjects for whom the same promise has not been issued, the abject(s) whose lives and deaths are completely nonspectacular within the dominant imaginations. Adding to this contradiction is the dimension that even the promises themselves are tenuous: indeed, as elite queers privilege homonormativity over more radical political and economic praxes, neoconservative forces continue to criminalize queerness. While first and foremost queers outside this elite or national racial strata are produced as exterminable sodomites, the category of the abject and killable always threatens even elite queers in first world spaces. This is part of the politico-economic and affective logics that have fueled a frenzied search for an end to pain: continue imperial soldiering in exchange for a mirage of security, or spend your energies fighting other queers for a prized space as most radical. With such a paucity of choices, our energies are directed away from building solidarities and exhausted by fixing on individualized solutions and fueling the (re)production of neoliberal, neoconservative, homonormative, and ultimately heteronormative worlds. If the neoliberal turn has been part of a larger strategy of counterinsurgency mobilized in the wake of revolutionary decolonization movements threatening capitalism, (hetero)sexism, and white supremacy, it is important to pause on some of the impacts of that (counter)mobilization. In this paper we have worked to foreground the affective logics that function on the level of feeling and desire in the service of a neoliberal project of a world remade. To begin to articulate the ways in which our most ‘intimate’ sensibilities — our fears, desires, mourning, and yearning — are being mobilized by a regime of global lockdown is to make urgent the production of solidarities not premised upon exploitation, profit, or death. For those engaged in movements dismantling the prison industrial complex and any form of imperial violence, it is precisely these affective economies to which we must be attentive. If we do not work to articulate the ways in which we become libidinally and erotically invested in the status quo of mass lockdown — in effect, the various promises that the prison issues — we run the risk of reproducing the racialized and sexualized economies of benevolence and exploitation that fortify so much of conservative, liberal, and even radical praxis. However, as we have sought to argue, the price of such dismissals is nothing less than participation in imperial violence that, ultimately, impacts us all. Amidst the many affective callings and seductive offerings we are issued, we must continue the work of imagining alternative ways to feel, be, and love in this moment of intensified empire-building. To become completely drawn into challenging homonormativization without attention to the larger structural underpinnings of social relations and processes may ultimately prove unproductive as it misses the larger imperial logics that may be embodied differentially in other sites. Moreover, it becomes impossible to discern the relationship between our own struggles and the set of promises and nonpromises offered to other others. Foreclosing potential and increasingly crucial solidarities, we are drawn into our own corners and ultimately diverted from the possibilities of massive, cross-bordered mobilizations, movements and revolutionary projects. In the place of this vision, we offer first and foremost a disruption of complicity, a refusal of empire’s promise project. The series of wars in which empire asks us to participate are utterly genocidal, rather than constituting processes that enable our security and healing. As members of different and overlapping communities and struggles, the authors have each grappled personally with this process. As activists and intellectuals who are engaged in struggles around war, migration and trafficking, labor and homelessness, mass imprisonment, and state violence against queer and transgender communities, we are confronted with the seductive — yet ultimately murderous — promises that are described in this essay. Moreover, as members of the academy at different levels (undergraduate student, graduate student, and faculty member), we have witnessed how the strategies of promise and nonpromise projects have worked to fragment, divide, and conquer people of color, working-class people, queers, transgender people, postcolonial subjects, and others within powerful academic zones of knowledge production. Recognizing that we can never be outside empire’s seductive offerings, we engage these questions out of rage, hope, and the desire to form life-sustaining solidarities and intimacies. We strive with others toward a politics that enables intimacies as both means and ends, as a strategy of movement-building in which relationships are formed not to instantiate empire’s incessant production of internal and external enemies, but to disrupt it. This is a politics that would challenge histories that dichotomize and fragment our worlds, and instead offer praxes of erotic resistance in which we might be able to glimpse a breathing space for reconstituting connections and relations based in collectivity and healing. With this analysis in mind, all attempts to separate and make discrete struggles for social justice and transformation — those working for prison abolition, sexual and gender freedom, decolonization, and the end to war, for example — prove unsuccessful. They are always already imbricated in one another. When one struggles to resist coercive sexual or gender regimes — heternormativization as well as homonormativization — one is already engaging in a politics deeply implicated in the wars on terror, poverty, and drugs, and in the (neo)slaveries of the prison industrial complex. This is true not only because of the devastating impacts these wars have had on queer communities and sexually aberrant (non)subjects locked away, and because of the ways in which a racializing “sodomotification” is drawn on to produce the criminal and the terrorist. Indeed, the violence and death that we authorize and face operate through and within our libidinal, erotic, and affective investments, investments that we must engage directly and rigorously if we are to disrupt the seductive workings of power in their most intimate dimensions. If, then, all queer politics are already organizing around and implicated in the buildup of global lockdown and imperialist war, the question is not *if* a praxis of decolonization and abolitionism is pertinent to queer struggles, but *how* and *why* it is. If it is true that our deepest desires, feelings, and arousals are tapped into for imperial production, it also becomes crucial to ask how we might organize, mobilize, and form alternative intimacies and desires. These alternatives, which continue to be nurtured in radical and revolutionary movements and collectivities, are forged as a disruption to individualized, consumptive, and privatized erotics in the name of broader collective projects of freedom and transformation that cultivate the pleasures of substantial connection and the production of more egalitarian relations. These are the intimacies that form the core of decolonizing imaginaries, those that understand sexual freedom only through collective self-determination. It is only when we engage the traumas *as well as* the yearnings of our pasts and our futures that we might be able to seize the possibilities increasingly foreclosed by empire’s seductive promises.

\*\*\*Various 2AC Cards\*\*\*

Terrorism Impact-D

No Risk of Chemical Biological or Nuclear Terrorism- System Checks

**Blair 2010** (Dennis, Director of National Intelligence, “Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence” <http://www.dni.gov/testimonies/20100202_testimony.pdf> Waldman)

Second, we can take it as a sign of the progress that while complex, multiple cell-based attacks could still occur, we are making them very difficult to pull off. At the same time, the recent successful and attempted attacks represent an evolving threat in which it is even more difficult to identify and track small numbers of terrorists recently recruited and trained and shor term plots than to find and follow terrorist cells engaged in plots that have been ongoing for years. Third, while such attacks can do a significant amount of damage, terrorists aiming against the Homeland have not, as yet, been able to attack us with chemical, biological, radiological, or nuclear weapons. I discuss this issue more in my classified statement.

Executive Power Internal

The framing of detainees as enemy combatants expands the executives power

O’Connor and Rumann 2009 (Michael and Celia, Both are Associate Professors of Law @ Phoenix Law School, The Washburn Law Journal, “The Rule of Law & the Global War on Terrorism: Detainees, Interrogations, and Military Commissions Symposium: Article: Fanning the Flames of Hatred: Torture, Targeting, and Support for Terrorism”, 48 Washburn L.J. 633, Lexis, Waldman)

The most familiar form of detention has been in the form of criminal prosecutions under the regularly applied criminal law. [n31](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277142271548&returnToKey=20_T9595063484&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.539287.4276170136" \l "n31) In addition to those criminally prosecuted in the immediate aftermath of 9/11, thousands of immigrants to this country were detained under immigration holds without charge or trial. [n32](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277142271548&returnToKey=20_T9595063484&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.539287.4276170136" \l "n32) The familiar form of detention pursuant to legal process is not the focus of this article; the detention of immigrants with minimal process is more relevant for our purposes and is encompassed in the subsequent data concerning the extent to which Muslims and Arabs feel that they were unfairly targeted for detention following 9/11. One of the most troubling innovations in detention practices is the detention on U.S. soil of alleged "enemy combatants." This practice,  [\*640]  exercised by the United States since September 2001, has involved only a handful of people, including two U.S. citizens. Since 9/11, the executive has held three people in this manner: Yaser Hamdi, Jose Padilla, and Ali Saleh al-Marri. [n33](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277142271548&returnToKey=20_T9595063484&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.539287.4276170136" \l "n33) The U.S. government detained these men as "enemy combatants" under an expanded view of executive power. As espoused by the Bush Administration, this expanded power purportedly permits the executive branch to seize and detain incommunicado, both citizens and non-citizens alike, their entire lives. [n34](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277142271548&returnToKey=20_T9595063484&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.539287.4276170136" \l "n34)

Torture Internal Link

Post 9/11 policy has left the us torturing inmates at bagram to get information

Goldenberg 2002 (Suzanne, US Environment Correspondent to the Guardian, “CIA Accused of Torture at Bagram Base” <http://www.guardian.co.uk/world/2002/dec/27/usa.afghanistan>, Waldman)

The CIA has used "stress and duress" techniques on al-Qaida suspects held at secret overseas detention centres, as well as contracting out their interrogation to foreign intelligence agencies known to routinely use torture, said a report published yesterday. The Washington Post paints a harrowing picture of the procedures for extracting information from terrorism suspects at such centres as Diego Garcia, the Indian Ocean island leased from Britain, and Bagram, the large US airbase in Afghanistan. Inmates at Bagram are kept in painful positions for hours, hooded or made to wear opaque goggles, or bombarded with light, the report says. However, other detainees have faced far worse for not cooperating, being "rendered" to a foreign intelligence service which has no compunction about torture. The Post suggests there has been a sweeping change in US policy on torture since September 11, despite public pronouncements against its use. It quotes Cofer Black, the former director of the CIA's counter-terrorist branch, as telling a congressional intelligence committee: "All you need to know: there was a before 9/11, and there was an after 9/11... After 9/11 the gloves come off."

Neg Solvency Card

We need a base to do military interrogations- boumediene directly conflicts this

Ford 2010 (Fred, Colonel in the US Army Judge Advocate General Corps, Pace Law Review, Essay: Keeping Boumediene off the Battlefield: Examining Potential Implications of the Boumediene v. Bush Decision to the Conduct of United States Military Operations, 30 Pace L. Rev. 396, Lexis, Waldman)

Could Boumediene impact current detention activities in Bagram? If Boumediene reaches that facility, the Eisentrager Court's worst fears would be realized. [n49](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277147970742&returnToKey=20_T9595673751&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.342661.81284055876" \l "n49) Military interrogations  [\*412]  might require court approval, or worse, the presence of a detainee's counsel. Moving a detainee may likewise require approval from the court. Conditions of confinement might be reviewable by a court. Military prison guards may be liable to their enemy captives in constitutional tort. The implications, again, are vast. In addition to detention operations in a theater of war, Boumediene may directly impact actual day-to-day combat operations. Justice Scalia warned that Boumediene could "cause more Americans to be killed." [n50](http://www.lexisnexis.com.floyd.lib.umn.edu/us/lnacademic/frame.do?reloadEntirePage=true&rand=1277147970742&returnToKey=20_T9595673751&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.342661.81284055876" \l "n50) Practically speaking, he was referring to a situation where a court releases a terrorist who returns to fight against Americans. Additionally, battlefield impact and risk to service members for other reasons is not improbable.

Executive Power Internal

Recent Court ruling drastically increases executive power by making a law free zone

the New york times 2010 (“Backward at Bagram”, <http://www.nytimes.com/2010/06/01/opinion/01tue1.html> Waldman)

One of the most vital jobs of the federal courts is to check excessive claims of presidential power. The courts have stepped up to the task at important times since President George W. Bush embarked on a campaign after the Sept. 11, 2001, attacks to create an imperial presidency. Sadly, a recent ruling by a federal appeals court on the American military prison at Bagram Air Base in Afghanistan was not one of those times. What makes the ruling especially distressing is that the extravagant claim of executive power upheld by the court — to create a law-free zone at the Bagram lockup — was dreamed up by Mr. Bush and subsequently embraced by President Obama. The appellate court ruled that there was no right to federal court review for the detainees, who say they were captured outside of Afghanistan, far from any battlefield, and then shipped to Bagram to be held indefinitely in harsh conditions.

Bagram Unconstitutional

Experts agree bagram is unconstitutional under boudemiene

Fisher 2010 (William, Writer for the Brunei Time , “Three Afghan Prisoners Challenge Indefinite Decision in Bagram” <http://www.bt.com.bn/opinion/2010/01/10/three-afghan-prisoners-challenge-indefinite-detention-bagram> Waldman)

Though President Obama has vowed to close Guantanamo, the Department of Justice continues to defend the George W Bush administration's position that individuals held at other US-run military facilities have no legal rights.  Deputy Solicitor General Neal Katyal, arguing for the government, said the circumstances surrounding detention of prisoners at Bagram are unique and do not match the circumstances at the Guantanamo Bay base in Cuba. Katyal noted that Bagram is in the middle of a war zone. But Tina Foster, executive director of the IJNetwork, who argued for the Bagram detainees, told IPS, "Our clients are three innocent men who have been imprisoned without charge for seven years and haven't even been told why." "The fundamental question at issue in these cases is whether the United States government can seize individuals from peaceful countries anywhere in the world and imprison them without charge indefinitely, based solely on the location of the prison facility where the government decides to detain them," Foster said. She added, "The position of the Obama administration is that it can do so, as long as it uses Bagram, instead of Guantanamo, as its legal black hole. This is an extreme position — and one that allows the president to do exactly what the Supreme Court said was unconstitutional in the Guantanamo cases."

International Spillover

we solve internationally- all torture detainees are shipped there- if they had to go to guantanamo they d get due process

Ghani 2010 (Aisha, Law Student @ Stanford University, “The Grim Future of Bagram Litigation”, <http://www.commondreams.org/view/2010/05/30-1> Waldman)

The fact that these opinions were not ultimately determinative in the final ruling can be attributed to the weight that the Court placed upon its jurisdictional opinions. And it is in taking note of this legal imbalance, that one senses a certain necessity to shift the focus back onto the substantive nature of the petitioners' cases in *Maqaleh v. Gates*. The case itself concerns three petitioners, Fadi Al-Maqaleh, Amin Al-Bakri, and Redha Al-Najar, all of whom are non-Afghan citizens who were captured outside of Afghanistan before being sent to Bagram Airfield Base. What this means is that if the administration had decided to send these men to Guantanamo Bay instead of Bagram, they would undoubtedly have had the constitutional right to invoke the writ of habeas corpus. The status of the petitioners in Maqaleh -- foreigners captured outside of Afghan territory -- is imperative to note because it is precisely this status that created the possibility of litigation on their behalf.

Neg- Alt Causes

Bagrams just the beginning- building human rights infrastructure key to restore credibility

Nossel 2008(Susan,Writer for the Guardian, “Closing Gitmo is Just the Beginning” <http://www.guardian.co.uk/commentisfree/cifamerica/2008/nov/19/obama-guantanamo-human-rights> Waldman)

[Bagram air base](http://www.guardian.co.uk/world/2008/aug/06/pakistan.afghanistan) in Afghanistan holds some 600 detainees. While many were captured on battlefields in Afghanistan, others were picked up from their homes, far from the main areas of the insurgency, and at least a handful were apparently brought there from elsewhere to be held indefinitely without charge. The prisoners lack access to legal counsel, and because the facility is on Afghan territory, the US justice department has argued that US habeas rights do not apply. Devising a fair process to adjudicate the status of these detainees will be essential to ensuring that Bagram is not the next Guantánamo. While abuses carried out as part of the fight against terrorism cost the US its position of leadership on human rights issues globally, regaining that status will require more than just bringing counter-terrorism tactics in line with international norms. While the Bush administration hailed democracy and freedom as centrepieces of its foreign policy, in practice it tended to sideline human rights considerations within its important bilateral relationships. To cite just a few examples, disregard for human rights has contributed to a culture of lawlessness in Pakistan's tribal areas. Despite $10-12bn in mostly military US aid to Pakistan since 2001, civilians affected by the current conflict are left defenceless in squalid, disease-infested camps – some of which the UN refugee agency cannot reach – where their frustration with the US-led war effort only grows. As part of its effort to stabilise this strategically vital region, the US must invest in building institutions that support the rule of law and ensuring that approaches to security uphold human rights. In neighbouring Afghanistan, the US needs to take immediate steps to reduce civilian casualties in military operations, and to press for an end to corruption, which is both fuelling the conflict and undermining popular faith in democratic governance. In contemplating political agreements to end the conflict the US must avoid strengthening the hands of the region's most brutal warlords. While human rights will not be the sole consideration governing multi-faceted relationships with foreign governments, the new administration needs to affirm their place on the agenda and work with like-minded voices to press for progress. The US also has work to do in terms of strengthening the international human rights infrastructure. The Bush administration distanced itself from the international human rights community by failing to ratify key treaties and absenting itself from new institutions of human rights enforcement. The next administration must demonstrate in tangible ways that the US is prepared to cooperate with others in building and strengthening mechanisms to protect and advance human rights in the 21st century. Its absence from key forums and debates has created space for spoilers who seek to vitiate existing human rights norms and prevent new ones from taking hold. In 2005 the UN adopted a new norm, the "responsibility to protect", affirming the duty of states to protect their own populations, and the obligation of the international community to step in when they won't do so. But the new norm has flunked its first test in [Darfur](http://www.guardian.co.uk/world/2008/nov/12/sudan), where the government has suborned rampant human rights abuses and the international community has failed to intervene effectively. Working with allies to build broad-based support for rigorous human rights enforcement is a long-term project that needs to start right away. Necessary steps also include re-engaging with the international criminal court, a body that has begun to prove itself as a vital instrument of international accountability for war crimes. Building US credibility on human rights will be a long-term project requiring a steady hand against the buffeting forces of foreign policy reality. Done right, the wider human rights agenda could make closing Guantánamo look like the easy part.

Obama Bad Link Turn

Plan Causes Obama to Spend Massive Political Capital- Derails Agenda

Huffington Post 2009 (Articredriver, intellectual commenter on “Is Bagram Obama’s New Secret Prison?” <http://www.huffingtonpost.com/andy-worthington/is-bagram-obamas-new-secr_b_287215.html> Waldman)

Jean Chretien and Bill Clinton have talked about the relative limits to the power of a POTUS and a Prime Minister of a country like Canada, with a British-style Parliamentary democracy. They agreed that when a Prime Minister had a majority government he or she had more power than a POTUS. Obama's problems with getting the Congress to introduce a health care bill consistent with his campaign promises demonstrates this relative lack of power. My interpretation of Obama limiting his support for a return to the rule of law for the captives to a few relatively minor changes is that he and his team have made the decision that he can not afford to expend the political capital on the rule of law without crippling his ability to deliver on every other promise he made. I think a full return to the presumption of innocence and the full rule of law protects public safety. Personally I think abandoning the rule of law was immoral, but I recognize many in this debate would happily sacrifice every traditional liberty, and every human right of others, when those they trust tell them these sacrifices are necessary for public safety. So I think the debate over torture, and unjust detention without charge should focus on public safety -- not morality.

Plan Popular- Flip Flop

Failure to close Bagram is seen as a flip flop

Andrew 2009 (Peter, Writer for Conservative American, “Official Obama Administration Scandals List”, <http://conservativeamerican.org/obama-administration-scandals-list/page-seven-301-350/> Waldman)

[William McGurn at the Wall Street Journal](http://online.wsj.com/article/SB124027091370936935.html) notes the contrast between Obama the candidate who said there should be a “rejection of the Bush administration’s attempt to create a legal black hole at Guantanamo” and Obama the President who now has his own “legal black hole” at Bagram Air Force Base in Iraq. On the senate floor in 2006 Obama said “I do not want to hear that this is a new world and we face a new kind of enemy.” [Mr. McGurn](http://online.wsj.com/article/SB124027091370936935.html) quotes a Glenn Greenwald, a former constitutional law litigator, who said “These actions — these contradictions between what he said and what he is doing, the embrace of the very powers that caused so much anger towards Bush/Cheney — are so blatant, so transparent, so extreme, that the only way to avoid noticing them is to purposely shut your eyes as tightly as possible and resolve that you don’t want to see it, or that you’re so convinced of his intrinsic Goodness that you’ll just believe that even when it seems like he’s doing bad things, he must really be doing them for the Good.”

Plan Popular- Waterboarding Controversy

Plan Overwhelmingly Popular

Hewitt 2009 (Hugh, Professor @ Chapman University Law School, “Thomas Ricks on the general shake-up in Afghanistan, and what Pelosi knew or didn't know about waterboarding” http://radioblogger.townhall.com/talkradio/transcripts/Transcript.aspx?ContentGuid=e7532030-1c2f-417a-af65-46e4b9826313 Waldman)

It just makes me want to throw up, the whole thing. Look, I am totally anti-torture, and this is something I’m really influenced by my friends in the military, is we don’t want our country to be associated with torture. You don’t want your troops thinking that torture is the right way to go. Torture always has two victims – the person it’s inflicted on and the person inflicting it. And you don’t want your soldiers coming back with their humanity destroyed by having become torturers. What did Nancy Pelosi know? I don’t even know if she knows at this point. But it’s pretty clear to me that the U.S. Congress knew that there was waterboarding going on, and went along with it when it was politically popular, and now is running away from it as fast as it can. HH: Well, I agree with that. And so doesn’t that mean that either this whole thing has to shut down or Nancy Pelosi has to step down, because you can’t have it both ways. You can’t go after lawyers in the Department of Justice who wrote opinions when ranking Democrats and ranking Republicans all applaud and say yeah, go get them. TR: I’m in violent agreement with you, which is it begins to look pretty smelly. I’ve always wondered why there was such hesitancy in the Democratic Party about a truth and reconciliation commission. Let’s get all the facts on the table. And this may be one reason that a lot of these people went along. I would like to know what everybody knew and when they knew it. I think making torture national policy was an enormous strategic mistake in this country, probably the second biggest mistake the Bush administration made, and one that we’ll be paying for, for many, many years to come as well. HH: But of course when you say torture, you mean waterboarding, and there is a very vigorous debate that waterboarding is not torture. But I understand you’re on the position that it is. TR: Well, whether it is or not I don’t know. What I’ll tell you is that 120 people have died in U.S. detention, 27 of them were ruled homicides. So 27 people died at the hands of somebody else. Whether they were beaten to death, waterboarded to death or whatever, I don’t know. But that certainly, when you kill somebody, that meets anybody’s quality of torture. HH: Well, actually it doesn’t, Thomas Ricks, and you know, A) there’s no evidence whatsoever that anyone was waterboarded to death. But you could have all sorts of negligent or malicious homicides that aren’t involving torture. I mean, if you put a gun to someone’s head and pull it, that’s not torture. I mean, it’s still homicide, still needs to be punished, but it’s not torture. TR: Okay, but it is cruel and unusual punishment, put it that way. HH: Oh, agreed. That’s completely agreed, and those have been investigated. To your satisfaction, with less than a minute, do you think the American military has adequately investigated every instance of abuse at its hands? TR: No. HH: Interesting. Now why do you say that? TR: Because I keep on being told that there were things that we haven’t heard about yet, especially at the detention center in Bagram. And it just makes me sick to my stomach. This is not something I ever thought I’d grow up in my country discussing.

Bagram Kills Obama Credibility

Bagram kills Obama’s cred

The American Prospect 5/14

(a publication-Still Abusing Detainees At Bagram. Adam Serwer on May 14, 2010 10:39 AM <http://www.prospect.org/csnc/blogs/tapped_archive?month=05&year=2010&base_name=obama_administration_still_abu>)

Let's also not let "confuse the senses" slip by. This is possibly a euphemism for sensory deprivation, which can be among the most excruciating forms of torture imaginable. Here's an [excerpt](http://www.abc.net.au/lateline/content/2006/s1662218.htm) from an account on early experimentation with sensory deprivation that Hilzoy [flagged](http://obsidianwings.blogs.com/obsidian_wings/2009/04/something-is-missing.html?cid=6a00d834515c2369e201156f2fc0ce970c) last year: Dr Donald O. Hebb at McGill University found that he could induce a state akin to psychosis in a subject within 48 hours. Now, what had the doctor done? Hypnosis, electroshock, LSD, drugs? No. None of the above. All Dr Hebb did was take student volunteers at McGill University where he was head of Psychology, put them in comfortable airconditioned cubicles and put goggles, gloves and ear muffs on them. In 24 hours the hallucinations started. In 48 hours they suffered a complete breakdown.II don't know if this is what "confuse the senses" means in the context of Bagram, but it's worth more looking into. Whatever credibility the Obama administration had remaining on the subject of breaking continuity with the Bush administration on issues of human rights is fast eroding. The irony is that the torture wing of the Republican Party will both feel vindicated and argue that the Obama administration represents a radical departure from the policies of the last administration

Bagram is a huge blow to Obama’s cred

ECanada 5/15

[Secret Prison Discovered At Bagram Air Force Base](http://www.ecanadanow.com/world/us-world/2010/05/15/secret-prison-discovered-at-bagram-air-force-base/) Posted by [Staff](http://www.ecanadanow.com/author/admin/) on May 15th, 2010 // [1 Comment](http://www.ecanadanow.com/world/us-world/2010/05/15/secret-prison-discovered-at-bagram-air-force-base/#comments) http://www.ecanadanow.com/world/us-world/2010/05/15/secret-prison-discovered-at-bagram-air-force-base/

A secret prison has recently been discovered at Bagram Air Force Base located in Afghanistan. The Red Cross has recently confirmed this information and released a statement saying a “Black Jail” is hidden within the air force base. Surprisingly, several prisoners claim to have been abused and tortured while being held captive at the jail during the Obama2_bingadministration despite the fact that Obama has stated that he would end torture. In a BBC interview with Sher Agha, a citizen who spent six days inside the prison, has said that it is known to insiders as “The Black Hole”. Agha and other prisoners have stated that they were subject to sleep deprivation and various other kinds of abuse. Another witness has stated that he was forced to dance in order to gain bathroom privileges. The discovery of this facility is likely to become a huge blow to the credibility of the Obama administration2_bing. There used to be a not-so-secret prison located at the base but was shut down due to claims of abuse and torture. There are currently nine eye witness accounts from released detainees and twelve statements made by prisoners still in custody that claim the facility exists and is currently operational.

Closure key to Obama Credibility

The only way to regain credibility is to close bagram

POMED 09

Jun 14, 2009 Restoring Credibility on Human Rights and Democracy: Detention, Rendition, and the Middle East http://pomed.org/activities/events/restoring-credibility-on-human-rights-and-democracy-detention-rendition-and-the-middle-east/

At the conclusion of the discussion, Katulis asked each participant to reflect on what the situation would be like in three years. El-Amrani recognized that US progress towards closing Guantanamo is extremely contingent on the broader political situation at home and the geopolitical situation in the region. He believed, however, that any initial excitement over Obama’s early actions on human rights has been overwhelmed by everything happening on the Israeli-Palestinian conflict. US credibility in the region, he argued, might hinge more on the peace process than on closing the detention facility. Hillebrand opined that it is near impossible to close Guantanamo by the end of 2009 given the reluctance of European governments to contribute to the effort. She also noted that even if Guantanamo were to close by Obama’s deadline, the issue of the more than 600 detainees at at Bagram Air Base in Afghanistan will still bring the issue of detention into the spotlight.  She believed issues of secret detentions and intelligence cooperation will remain prominent over the next 5-10 years. Hurlburt asserted that Guantanamo will be closed on January 22, 2010 to uphold Obama’s personal credibility in the region. This closure, however, will likely come in a unacceptable form for human rights groups. She agreed with Hillebrand that global attention will turn to the much trickier situation at Bagram Air Base. She also predicted that a former Guantanamo detainee might participate in an attack and that would likely reignite the debate on the proper way to deal with preventative detention and anti-terrorism policy.

Credibility Low

Obama’s credibility is low now

Washington Examiner 4/25

(Obama's credibility crisis Examiner Editorial  April 25, 2010 http://www.washingtonexaminer.com/opinion/Obama\_s-credibility-crisis-91958294.html)

Hard on the heels of that shocking Pew Research Center survey finding that four out of five Americans don't trust government comes a blitz of new revelations about the Obama administration that amount to a full-fledged credibility crisis. The latest disclosures are especially damaging because they concern President Obama's possible misrepresentation of his relationships with former Illinois Gov. Rod Blagojevich and convicted felon Tony Rezko, his administration's misleading statements about Obamacare costs, and questions about improper manipulation of government-owned General Motors and the Securities and Exchange Commission. The Blagojevich revelations were no less serious for being accidental. Blagojevich's defense attorneys filed a federal court motion to subpoena Obama concerning charges that the former governor tried to sell the U.S. Senate seat formerly occupied by the chief executive. Improper formatting of the heavily redacted public version of the motion contained evidence that Obama spoke to Blagojevich about the Senate appointment a week before telling White House reporters that he had not done so. The document also revealed that federal prosecutors are withholding from Blagojevich's attorneys documents describing what Obama told investigators about conversations with Rezko on the appointment or his financial ties to the Chicago developer who was one of his key fundraisers. On Obamacare, the president and his appointees said repeatedly over the last year that it would reduce government health care spending. Yet now comes Kathleen Sebelius, Obama's Department of Health and Human Services secretary, confessing that "We don't know how much it's going to cost." Why is Sebelius only now saying this when her own department just made public a report obviously months in preparation that projected government health care costs overall will go up, not down? That same HHS report also said Obamacare's Medicare cuts could put 15 percent of all hospitals out of business, making treatment harder to get and more expensive, especially for seniors. Finally, General Motors claimed in national advertisements this week that it repaid its Troubled Asset Relief Program loans, plus interest, five years early. But the TARP inspector general said GM used other TARP funds to repay its original TARP loans, so the ads were fundamentally dishonest. Recall here that White House adviser Carol Browner told GM and other automakers to "write nothing down" about their dealings last year with administration officials on fuel economy standards. So it seems entirely appropriate to ask if GM's repayment claims were "suggested" by somebody in the Obama White House. That would be the same White House that is also now suspected of improperly influencing the SEC to file fraud charges against Goldman Sachs just as Congress debates Obama's financial reform proposal. As the Obama administration will learn, plummeting public trust eats away at the fundamental credibility of government and undermines its ability to carry out even its most basic duties.

Credibility key to National Security

Lack of Obama cred kills our national security

Skypek 2/2

(TUESDAY, FEBRUARY 2ND, 2010 AT 8:28AM [How the Obama administration’s lack of credibility is weakening U.S. national security](http://www.hopeisnotaforeignpolicy.org/2010/02/02/how-the-obama-administrations-lack-of-credibility-is-weakening-u-s-national-security/) Posted by Tom Skypek (Thomas M. Skypek is a defense policy analyst based in Washington, DC. His articles on defense and foreign policy have been published in The National Interest, The Washington Times, The Journal of International Security Affairs, The Weekly Standard, The Journal of Military and Strategic Studies, and Chief Brief. The views expressed herein are solely those of the author and do not represent any organization.)

Since January 20, 2009, American credibility has taken a back seat to the Obama administration’s quest for international popularity.  During his trips to the Middle East and Asia last year, President Obama seemed more interested in bolstering his approval ratings abroad than advancing American interests.  Last week it was reported that the Obama administration [downgraded](http://www.washingtontimes.com/news/2010/jan/20/china-removed-top-priority-spies/) the priority placed on intelligence collection for China in an effort to increase cooperation with Beijing.  This move was made despite the fact that Chinese cyberattacks against the U.S. are on the rise and the leadership in Beijing remains reticent about its massive military modernization program. Unfortunately, U.S. national security is more dependent on the credibility of American power—and the words and policies of its commander-in-chief—than international popularity.  In foreign affairs, credibility matters.  Hollow threats and naïve policies embolden our adversaries while broken commitments lead our friends and allies to question our resolve.  During the first year in power, the Obama administration has damaged American credibility with its mishandling of American national security policy. Ft. Hood Terrorist Attack and Northwest Flight 253. The President’s sluggish response to both incidents was unfortunate, but what was far worse was his failure to identify both attacks for what they were—part of an international campaign by Islamic extremists to kill Americans.  After Army Major Nadal Hassan murdered 13 soldiers at Ft. Hood last November, President Obama cautioned against a rush to judgment—despite immediate and overwhelming evidence that Hassan was indeed a jihadist.  Obama would later refer to the Nigerian man who attempted to blow up Northwest Flight 253 on Christmas Day as “an isolated extremist.”  This message of obfuscation is not one of strength and only serves to weaken American credibility.  If we’re too timid to identify our adversaries, then how can we effectively prosecute a war against them? The Afghanistan Decision. It took President Obama three months to make a decision on whether or not to increase troop levels in Afghanistan after his commanding general in Afghanistan (whom he selected) appealed to him for additional troops or risk a mission failure.  Obviously, it is incumbent upon a commander-in-chief to carefully weigh all of his options when the use of force and American lives are at stake.  But dawdling for three months after the commanding general has communicated, in no uncertain terms, that a failure to provide additional troops may jeopardize the mission is unacceptable.  Such dithering only serves to paint the picture of an indecisive commander-in-chief. Indecision hampers American credibility. Nuclear Weapons and a START Follow-On. The dramatic reduction of the U.S. nuclear stockpile and the movement toward a nuclear-free world quickly became one of President Obama’s signature foreign policy issues.  In a speech in April 2009, he pledged to reduce significantly the U.S. nuclear stockpile as a first step toward a nuclear-free world.  The problem is that his lofty policy ideas are simply incompatible with the U.S.’s need to maintain a credible nuclear deterrent.  While the United States nuclear weapons complex is deteriorating in [every respect](http://www.securityaffairs.org/issues/2009/16/thayer&skypek.php), China, Russia, Iran, and North Korea are investing heavily in their own nuclear weapons complexes. Without credibility, deterrence will fail. Missile Defense in Poland and the Czech Republic. Warsaw and Prague learned the hard way that under the Obama administration sometimes adversaries are treated better than allies.  President Obama’s decision to scrap a missile defense agreement negotiated by his predecessor with the Polish and the Czech governments was yet another credibility-busting policy maneuver.  Both Poland and the Czech Republic bent over backwards to support Washington; both countries wanted the European missile defense sites to defend against Iranian ballistic missiles.  The message to U.S. allies: Don’t count on the United States to keep its word. The Iranian Nuclear Program. President Barack Obama’s December 31st deadline for Iran to accept the terms of the UN-crafted deal over its nuclear program has come and gone, without any real consequences for the regime in Tehran.  After Iranian President Mahmoud Ahmadinejad publicly mocked the year-end deadline, White House Press Secretary Robert Gibbs warned on December 22nd that Washington’s ultimatum was “a very real deadline.”  This latest deadline should not be confused with the very similar deadline President Obama set in July of last year that called for Iran to show “good faith” efforts toward disarmament by September 2009.  The Iranians have faced no substantive consequences for failing to comply with these deadlines.  The real consequence of these hollow threats?  A deterioration of American credibility. Closing Gitmo and the Prosecution of CIA Operatives. Days after taking office, President Obama made clear his commitment to close the detention center at Guantanamo Bay.  In August 2009, President Obama tasked Attorney General Eric Holder with investigating CIA operatives who used enhanced interrogation techniques during the Bush administration.  Of course, both policy reversals were meant to assuage international opinion about perceived American “excesses” in the fight against Islamic extremism under the administration of George W. Bush.  The message to the rest of the world:  this is not the Bush administration.  While this message might have pleased the Davos crowd and certain constituencies within the United States, this made clear that the Obama administration viewed the struggle against Islamic extremism much differently than its predecessor. Trying Terrorists in Civilian Courts. The administration’s decision to try terrorists in civilian courts may placate the American Civil Liberties Union but at a tremendous cost to U.S. national security.  As Charles Krauthammer recently [noted](http://article.nationalreview.com/419489/war-what-war/charles-krauthammer), individuals who do not wear the uniform of a nation-state and launch direct attacks on civilians are enemy combatants and should not be afforded the same rights as American citizens.  The [9/11 Commission Report](http://govinfo.library.unt.edu/911/report/911Report.pdf) concluded that the prosecutions of the 1993 World Trade Center bombing conspirators created a false impression that the U.S. criminal justice system was the proper venue in which to deal with terrorists.[[i]](#_edn1) These decisions, taken individually or together, have only served to weaken American credibility abroad—not to mention they’ve been wholly ineffective.  Have these policies convinced Mahmoud Ahmadinejad to abandon his nuclear weapons program, Osama bin Laden to renounce terrorism, or Russia and China to support a comprehensive sanctions package against Iran?  Hollow threats and obfuscation embolden our enemies, weaken our bargaining positions and leave Washington with fewer policy options.  What is more, a continued reduction in American credibility may lead our friends and allies to reassess their defense and security relationships with the United States.  It’s not too late for a course-correction but unless the White House begins to place a greater commitment on building American credibility rather than tearing it down, President Obama runs the risk of becoming another Jimmy Carter.

[Bagram kills credibility](file:///C:\jonathan-horowitz)

Huffington Post 09

([Jonathan Horowitz](file:///C:\jonathan-horowitz) Consultant, Open Society Institute Posted: September 21, 2009 09:11 AM [New Bagram Prison Procedures Still Fall Short](http://www.huffingtonpost.com/jonathan-horowitz/new-bagram-prison-procedu_b_291091.html) http://www.huffingtonpost.com/jonathan-horowitz/new-bagram-prison-procedu\_b\_291091.html)

Many Afghans remain deeply angered that the U.S. is operating a detention facility on Afghan soil without respecting Afghan law. It's a concern that has been gaining ground among Afghan officials for years and will damage Bagram's credibility if not addressed.  In 2008, the U.S. handed the case file of Afghan national Haji Pacha Wazir to Afghan authorities before transferring Wazir to Afghan custody. The authorities noted that there was not adequate evidence for his detention, and President Karzai ordered his release. However, Wazir is still at Bagram and the United States refuses to release him. Afghan officials complained that the incident undermined Afghan sovereignty.  The U.S. is understandably wary of handing all its detainees over to Afghan custody. Afghanistan's justice system is plagued by corruption that allows dangerous individuals to bribe their way back to the battlefield while innocent people are detained. But holding detainees at Bagram without Afghan involvement is also a mistake.  Alternately, the U.S. could work with Afghan justice, security, and law enforcement officials to make the Bagram process credible in the eyes of Afghan government officials, local communities, lawyers, and human rights groups. Detention guidelines jointly established and followed by the U.S. and Afghan authorities would improve the quality of information gathering, reduce wrongful arrests and corruption, and ensure humane treatment of detainees. Respecting Afghan laws at Bagram that protect the rights of detainees and defense lawyers would provide the process greater legitimacy. This plan fits in well with Special Representative Richard Holbrooke's commitment to a "[renewed spirit of cooperation](http://www.state.gov/p/sca/rls/remarks/126859.htm)" with the Afghan government. Such cooperation at Bagram would also be part of the effort to get U.S. troops out of the country, which will depend on transferring to Afghans the responsibility for administering their own security and justice sectors.

CMR Link

Bagram stresses the relations between the U.S. Government and the U.S. Military

The Atlantic 3/ 25

(White House and Military Clash over Bagram MAR 25 2010, 2:29 PM ET http://www.theatlantic.com/international/archive/2010/03/white-house-and-military-clash-over-bagram/38034/)

However, the Los Angeles Times [reports](http://articles.latimes.com/2010/mar/21/world/la-fg-afghan-prison21-2010mar21) that some White House officials are considering sending Guantanamo detainees to Bagram for indefinite detention there. In addition to raising a litany of legal and diplomatic questions, this would seriously undermine McChrystal's effort to use Bagram as a point of compromise in reducing violence in Afghanistan. If the U.S. openly plans to hold some Bagram detainees indefinitely, it will establish Bagram as a long-term, large-scale detention facility. That would hardly convince Afghans to trust U.S. promises of releasing large numbers of Bagram prisoners. Moreover, McChrystal opposes indefinite detention at any site, saying it undermines America's message that it is a friend to Afghans and promoting anti-American sentiment. On issues like "Don't Ask, Don't Tell" and the Afghanistan troop increase, the White House has worked hard to demonstrate that it has the military on its side. It will have to be careful not to antagonize the military on Bagram detention if it wishes to maintain the thus-far positive White House-military relationship.

Politics Popular- Public

The Public HATES prisons known for torture, Gitmo proves

US News 5/5

(House Democrats' "No" on Guantanamo Closure a Stunning Rebuke to Obama By [PETER ROFF](http://politics.usnews.com/Topics/tag/Author/r/roff_peter/index.html) Posted: May 5, 2009 http://politics.usnews.com/opinion/blogs/peter-roff/2009/05/05/house-democrats-no-on-guantanamo-closure-a-stunning-rebuke-to-obama.html)

But it also creates a wedge between the Obama Congress and the president himself. Recent surveys have shown that Obama remains more popular than his programs, a popularity that does not translate to Democrats generally, Democrats who are already concerned about the upcomingelections in 2010.  The American public, while apparently supportive of Gitmo's closure, according to several private surveys I have seen, wants it closed carefully, not recklessly. The idea that the detainees might be moved to the United States or, worse, released there, does not sit well with them. We now have the first division of the new presidency. The bloom is off the rose.

Plan Unpopular- Left Unity

The left is split over bagram because of gitmo

American Prospect 09

(The Left Splits Over Bagram Is sending some Guantanamo detainees to Bagram a good idea? ADAM SERWER | November 13, 2009 http://www.prospect.org/cs/articles?article=the\_left\_splits\_over\_bagram)

As the January deadline approaches, a rift has emerged on the left over exactly how to facilitate Guantanamo Bay's closure. On Tuesday, the Center for American Progress, an organization with close ties to the administration, released a report recommending that the administration send Guantanamo Bay detainees who were captured in Afghanistan and have lost their habeas petitions to Bagram prison in Afghanistan, which would help the administration empty Guantanamo Bay sooner rather than later. The report recommends setting July 2010 as a new deadline for the facility's closure."Lawful military detention is appropriate in certain circumstances," says Ken Gude, the author of the report. "There are a small number of individuals who would very likely return to the fight … I'm talking about enemy fighters who were captured in a zone of active combat or fleeing the battlefield." The report was met with criticism from some human rights advocates, in particular lawyers who have defended clients imprisoned in Guantanamo Bay. Opponents argue that it would be more difficult for lawyers to pursue appeals, and express concern that their clients might be subject to abuse and mistreatment without legal recourse. The disagreements over the report highlight ongoing tensions on the left over the use of preventive detention -- while there is a historical precedent for preventive detention in a military context, opponents say that shifting Gitmo detainees to Bagram will only exacerbate the strategic liabilities caused by U.S detention policies. Detainees who had lost their habeas petitions at the circuit court level could still be able to appeal the decision -- being moved to Bagram would not have the effect of denying them their right to challenge their detention, Gude claims. Under the laws of military detention, enemy soldiers can generally be held for the duration of hostilities -- critics counter that the fight against terrorism is so open-ended as to make it possible for the U.S. to hold detainees forever. Judge John Bates of the U.S. District Court ruled last April that some detainees at Bagram -- foreigners captured in a third country and then rendered to Afghanistan -- are entitled to habeas rights, but the administration is fighting the ruling

Plan Unpopular GOP

GOP against Bagram, they want fair trails for gitmo people

Politico 09

GOP concerned with Gitmo closing By SARAH ABRUZZESE & [PATRICK O'CONNOR](http://www.politico.com/reporters/PatrickO'Connor.html) | 1/22/09 12:16 PM EST

Updated: 1/23/09 6:29 AM EST http://www.politico.com/news/stories/0109/17806.html

“We support President Obama’s decision to close the prison at Guantanamo, reaffirm America’s adherence to the Geneva Conventions, and begin a process that will, we hope, lead to the resolution of all cases of Guantanamo detainees,” McCain and Graham said in a statement. McCain, the Republicans’ 2008 presidential nominee, and Graham, a close ally, said that Obama’s executive orders “leave several major issues unaddressed.” “Present at Guantanamo are a number of detainees who have been cleared for release but have found no foreign country willing to accept them,” the senators said. “Other detainees have been deemed too dangerous for release, but the sensitive nature of the evidence makes prosecution difficult. The military’s proper role in processing detainees held on the battlefield at Bagram, Afghanistan, and other military prisons around the world must be defended, but that is left unresolved. Also unresolved is the type of judicial process that would replace the military commissions. We believe the military commissions should have been allowed to continue their work.”

Plan Popular- Democrats

Dems against Afghanistan, would love the plan

Politico 5/25

Obama losing Hill liberals on war By: Jonathan Allen and Marin Cogan June 25, 2010 04:35 AM EDT http://dyn.politico.com/printstory.cfm?uuid=6C88E155-18FE-70B2-A8BE5FB933B0B4C8

As President Barack Obama reaffirms his Afghanistan policy, he’s also emboldening critics in Congress who think he should use a shake-up in commanding generals to change the course of what they believe is an intractable war.  “I think he has to reassess the strategy,” Rep. Jackie Speier (D-Calif.) said Thursday. “I can’t believe for a minute that he’s not rethinking it.”  Massachusetts Democrat Jim McGovern fired off a letter Wednesday to House Speaker Nancy Pelosi (D-Calif.), asking her to hold off on a war-funding bill until Congress can assess the full fallout of a Rolling Stone article that concluded — without correction from the White House — that the president and his commanders have been backing off plans to withdraw starting in July 2011.  The bottom line: The president and congressional critics, long on a collision course over the war in Afghanistan, are hurtling ever faster toward each other since the ouster of Gen. Stanley McChrystal, and doves on Capitol Hill are feeling a little tougher right now. 

Plan Unpopular

Bagram removal would be a loss for Obama

McClatchy Newspapers 5/21

Court: Bagram prisoners don't have Guantanamo habeas rights By Michael Doyle | McClatchy Newspapers Posted on Friday, May 21, 2010 http://www.mcclatchydc.com/2010/05/21/94620/court-bagram-prisoners-dont-have.html

Sentelle is one of the most conservative judges on the influential D.C. Circuit. He was joined by two members of the court's liberal wing, Judges David Tatel and Harry Edwards.The ruling is a marked victory for the Obama administration, which had adopted the Bush administration's prior arguments excluding Bagram detainees from constitutional protections. The court, though, made clear it was not adopting all of the administration's reasoning, some of which Sentelle called "extreme."The case's next stop could well be the Supreme Court. Court nominee Elena Kagan would presumably recuse herself from the case if confirmed, because as solicitor general she's overseen the Obama administration's arguments.An estimated 800 detainees are currently held at Bagram. Relatively few were born and captured outside of Afghanistan, though they are at the heart of the dispute."There are not a large number of people who fall into this category," noted Vijay Padmanabhan, a former State Department attorney-adviser, "but it's a very important case, because it sets the boundaries (for overseas detention)."Now teaching at the Benjamin N. Cardozo School of Law in New York, Padmanabhan said the ruling if upheld could allow "the government to pick people up anywhere and just send them to Bagram," where their detention couldn't be challenged..

Plan Unpopular GOP

GOP doesn’t think that detainees in bagram have rights, they would hate the plan

Washington Post 6/27

Why Dems should hate, and the GOP should love, Elena KaganBy Eva Rodriguez  |  June 27, 2010; 8:48 PM ET <http://voices.washingtonpost.com/postpartisan/2010/06/why_dems_should_hate_and_the_g.html>

Imagine the outrage from the left if a Republican president nominated someone to the Supreme Court who: argued that the ruling that gave Guantanamo detainees the right to challenge their incarceration in federal court should not apply to those captured in other countries and shuffled off to the Bagram military prison in Afghanistan; urged the Supreme Court to block a federal trial judge’s order to free into the United States Chinese Muslims who’ve been held unjustly at GITMO for nine years and can’t be returned to their homeland for fear they’d be tortured; advocated for prosecution of a former administrative law judge who wants to turn a U.S.-designated terrorist group away from violence by advising it on how to use lawful and peaceful means to advance its political agenda.For good measure, throw in the nominee’s defense of Congress’s “sensible action” in concocting a dubious land swap to allow a cross to remain in the Mojave Desert. The howls from liberals would be deafening. Yet we’ve heard nary a peep from Democrats because the nominee who advanced these views is none other than Solicitor General Elena Kagan, President Obama’s pick for the Supreme Court. And Republicans – shouldn’t they be championing a nominee who has more often than not taken positions in court that mirror their own? Out of the question! Such a move would come dangerously close to a Charlie Crist-like heretical hug of the president, and that simply can’t be tolerated, especially not in the face of midterm elections. So Democrats bide their time and bite their tongues and Republicans scramble to distort Kagan’s record at every turn. The confirmation hearing in the hands of these professional politicians isn’t nearly as much about Kagan and her qualifications as it is about shaking the pom poms of their respective teams. D-N-C! R-N-C! Sis boom bah! Pass the Pepto-Bismol.

Losing War Now

Losing war in afghanistan

CNN 09

(U.S. losing war in Afghanistan, McCain says updated 6:42 p.m. EST, Wed February 25, 2009

http://www.cnn.com/2009/POLITICS/02/25/mccain.afghan.war/index.html)

The Arizona senator, the ranking Republican on the Senate Armed Services Committee, said that while he approved of President Obama's recent decision to send 17,000 more troops to the country, he believed an additional allied military and civilian surge would be necessary to prevent it from once again becoming an al Qaeda safe haven. The Obama administration is conducting a review of overall U.S. policy in the troubled Islamic republic, the president said in his joint address to Congress on Tuesday. "With our friends and allies, we will forge a new and comprehensive strategy for Afghanistan and Pakistan to defeat al Qaeda and combat extremism," Obama said Tuesday. "Because I will not allow terrorists to plot against the American people from safe havens halfway around the world. We will not allow it."

But McCain said on Wednesday, "When you aren't winning in this kind of war, you are losing. And, in Afghanistan today, we are not winning." He delivered his remarks at the American Enterprise Institute, a Washington-based think tank. [McCain](http://topics.cnn.com/topics/John_McCain) claimed that while the situation in Afghanistan is "nowhere near as dire as it was in Iraq," the number of insurgent attacks had spiked in 2008 and violence had increased more than 500 percent in the past four years. Growing portions of the country "suffer under the influence of the Taliban," he added.McCain's comments echoed those of Defense Secretary Robert Gates, who acknowledged last Friday that the United States is facing a "very tough test" in [Afghanistan](http://topics.cnn.com/topics/Afghanistan). [Children's bodies used in](file:///C:\2009\WORLD\asiapcf\02\23\afghanistan.rockets\index.html)

"But I'm sure we will rise to the occasion the way we have many times before," Gates told a news conference in Krakow, Poland, where NATO defense ministers were meeting. McCain said that the U.S. was winning [the war in Afghanistan](http://topics.cnn.com/topics/Afghanistan_War) through early 2005, when some troops were withdrawn and "our integrated civil-military command structure was disassembled and replaced by a Balkanized and dysfunctional arrangement." A Vietnam War veteran, former prisoner of war and longtime member of the Armed Services Committee, McCain said that while he knows Americans "are weary of war ... we must win [in Afghanistan]. The alternative is to risk that country's return to its previous function as a terrorist sanctuary, from which al Qaeda could train and plan attacks against America." Among other things, McCain stated that the U.S. needs to establish a larger military headquarters capable of executing "the necessary planning and coordination for a nationwide counterinsurgency campaign." He also said plans to expand the Afghan army from 68,000 to 134,000 troops were insufficient. He recommended expanding the Afghan army to between 160,000 and 200,000 troops.

At the same time, he said, the U.S. needs to boost the country's nonmilitary assistance to help strengthen "its [civilian] institutions, the rule of law, and the economy in order to provide a sustainable alternative to the drug trade." Southern Afghanistan provides about two thirds of the world's opium and heroin. Over the years, those two drugs have served as a major source of revenue for the insurgency, including the Taliban.

McCain warned that, even if his recommendations are adopted, the violence in Afghanistan is "likely to get worse before it gets better. The scale of resources required to prevail will be enormous."

The timetable, he concluded, "will be measured in years, not months."

Losing War in Afghanistan Now

RAWA 08

(Former CIA Official: U.S. Losing War in Afghanistan J.J. Green, WTOP Radio, April 14, 2008 http://www.rawa.org/temp/runews/2008/04/14/former-cia-official-u-s-losing-war-in-afghanistan.html)

WASHINGTON - The U.S. is on the verge of losing the war in Afghanistan, says a former top CIA official who was involved in attempts to capture and kill Osama bin Laden. The UN called 2007 the bloodiest year in Afghanistan since 2001. (AP photos) "Afghanistan of course is a terrible disaster for the United States and NATO. NATO seems to be dying in Afghanistan," says Mike Scheuer, who headed the CIA's Osama Bin Laden unit when the war began. Scheuer is no longer with the agency. His harsh assessment comes in his new book, "Marching Toward Hell: America and Islam After Iraq." "What we managed to do was what invaders of Afghanistan always do. We took the cities and declared victory, but we didn't kill the enemy," Scheuer tells WTOP. "The enemy escaped, the Taliban and al Qaida, now we have a growing insurgency in Afghanistan. And, we certainly don't very many more troops to send there." So, why is the war a disaster? Scheuer says the U.S. made some horrible miscalculations. "We tried to do Afghanistan on the cheap," he says. More than 12,000 people, including some 350 foreign soldiers, have been killed since 2006 in Afghanistan. A UN report said there were 8,000 conflict-related deaths in 2007 - a fifth of which were civilians. Over 130 suicide attacks were committed in Afghanistan during 2007 Right Side News, April 14, 2008 "We tried to win a war with several hundred intelligence officers and about a thousand special forces."What does Scheuer think should happen now? "Unfortunately, it would involve several major politicians saying we've lied to you for the last 15 years." WTOP has contacted the Department of Defense but the department has yet to respond.

Torture Not key to Strategy

Torture is not an integral part of our strategy, in fact it goes against the official strategy.

Bowman and Dale 2/25

War in Afghanistan: Strategy, Military Operations, and Issues for Congress Steve Bowman Specialist in National Security Catherine Dale Specialist in International Security February 25, 2010 CRS Report for Congress Prepared for Members and Committees of Congress

The U.S. government plays a significant leadership role in both ISAF and NATO as a whole, and thus helps shape NATO and ISAF strategy and approaches. At the same time, the United States may have national interests in Afghanistan and the region that are not shared by all ISAF contributors, and the relative priority of various interests may differ among the Allies. The U.S. government has not published a formal strategy for Afghanistan, along the lines of the November 2005 National Strategy for Victory in Iraq.28 Key Obama Administration officials have nevertheless outlined several elements of the U.S. strategy. Under Secretary of Defense for Policy, Michèle Flournoy has stated that “our strategic objective is a stable and secure Afghanistan in which al Qaeda and the network of insurgent groups, including the Taliban, are incapable of seriously threatening the Afghan state and resurrecting a safe haven for terrorism.”29 Secretary of State Hillary Clinton has indicated that President Obama’s Afghanistan strategy focuses on these elements: sending additional troops to Afghanistan; providing a “major increase” in non-military aid to Afghanistan; confronting the drug trade; and developing a coherent Pakistan policy. Furthermore, based on a policy of “more for more,” aid to GIRoA would be tied to better performance.30 CENTCOM conducted a 100-day comprehensive strategic review of its entire area of responsibility, including Afghanistan. For his part, General McKiernan, then ISAF Commander, suggested that U.S. interests might include ensuring that Afghanistan cannot harbor terrorists; establishing a controlled Afghanistan/ Pakistan border; promoting a degree of regional stability; supporting a constructive role for Iran; and encouraging some form of freedom and democracy for the Afghan people.31 Upon assuming office, President Obama initiated an interagency policy review and consultations with both coalition allies and the governments of both Afghanistan and Pakistan. On March 27, 2009, President Obama outlined a strategy for continuing operations in both Afghanistan and Pakistan based on this review, which included consultations with coalition allied governments and those of Afghanistan and Pakistan. The white paper summarizing the review report listed five objectives:32 • Disrupting terrorist networks in Afghanistan and especially Pakistan to degrade any ability to plan and launch international terrorist attacks. • Promoting a more capable, accountable, and effective government in Afghanistan. • Developing increasingly self-reliant Afghan security forces that can lead the counterinsurgency and counterterrorism fight with reduced U.S. assistance. • Assisting efforts to enhance civilian control and stable constitutional government in Pakistan and a vibrant Pakistanieconomy. • Involving the international community to actively assist in addressing these objectives for Afghanistan and Pakistan, with an important leadership role for the United Nations. The white paper defined two priority missions for U.S. military forces in Afghanistan: (1) to secure Afghanistan’s south and east regions against a return of al Qaeda and its allies, and provide a space for the Afghan government to establish effective control, and (2) to provide Afghan security forces the mentoring required to expand rapidly and take the lead in counterinsurgency operations, thereby allowing U.S. forces to “wind down” combat operations.33 To carry out these missions, the Administration’s review called for “executing and resourcing an integrated civilian- military counterinsurgency strategy.” In June, 2009 General Stanley McChrystal assumed command of U.S.-NATO forces in Afghanistan and undertook another review of the security situation in Afghanistan, resulting a report submitted to the Department of Defense in August 2009. General McChrystal particularly emphasized (1) a comprehensive counterinsurgency strategy focused on the welfare of the Afghan population; (2) improving ISAF’s unity of effort and command; (3) increasing the size and capability of Afghan security forces and operational “partnering” with allied forces; (4) improving Afghan civil governance and reducing governmental corruption; (5) gaining the initiative against the insurgency throughout the country; and (6) prioritizing allocation of resources to the most threatened populations.34 In response to General McChrystal’s report, and the tenuous political situation in Afghanistan in the wake of the flawed presidential election there, the Obama Administration undertook the most extensive review yet of strategy regarding Afghanistan. The review’s conclusions, outlined in President Obama’sDecember 3 speech at the U.S. Military Academy, essentially endorsed the principals of the March white paper. The President’s decision to augment U.S. forces in Afghanistan with an additional 30,000 troops reflected a desire to accelerate the three main military elements of the strategy: (1) break the momentum of the insurgency, (2) better secure the major population centers, and (3) increase the number and improve the performance of Afghan National Security Forces. The President also announced that the increased U.S. force level (approximately 98,000 troops) would be maintained until July 2011, at which time a withdrawal of U.S. forces would begin. The pace and size of the withdrawal will be dependent upon the state of the security environment at that time.

Joint Chiefs of Staff Say No

Joint Cheifs of Staff will say no, they think they’ve taken care of it

New York Times 09

(Pentagon Seeks to Overhaul Prisons in Afghanistan By [ERIC SCHMITT](http://topics.nytimes.com/top/reference/timestopics/people/s/eric_schmitt/index.html?inline=nyt-per) Published: July 19, 2009 http://www.nytimes.com/2009/07/20/world/asia/20detain.html)

A sweeping United States military review calls for overhauling the troubled American-run prison here as well as the entire Afghan jail and judicial systems, a reaction to worries that abuses and militant recruiting within the prisons are helping to strengthen the [Taliban](http://topics.nytimes.com/top/reference/timestopics/organizations/t/taliban/index.html?inline=nyt-org). In a further sign of high-level concern over detention practices, Adm. [Mike Mullen](http://topics.nytimes.com/top/reference/timestopics/people/m/michael_g_mullen/index.html?inline=nyt-per), the chairman of the [Joint Chiefs of Staff](http://topics.nytimes.com/top/reference/timestopics/organizations/j/joint_chiefs_of_staff/index.html?inline=nyt-org), sent a confidential message last week to all of the military service chiefs and senior field commanders asking them to redouble their efforts to alert troops to the importance of treating detainees properly. The prison at this air base north of Kabul has become an ominous symbol for Afghans — a place where harsh interrogation methods and sleep deprivation were used routinely in its early years, and where two Afghan detainees died in 2002 after being beaten by American soldiers and hung by their arms from the ceiling of isolation cells.

Torture Advantage:

Squo In Bagram

Bagram is a legal blackhole- no rights for prisoners  
LA Times 10 (4/26/2010, editorial, "Bagram: a legal black hole?", <http://articles.latimes.com/2010/may/26/opinion/la-ed-bagram-20100526>)  
  
A federal appeals court has ruled that, unlike inmates at Guantanamo Bay, Cuba, some 800 prisoners held at a U.S. military base in Afghanistan may not challenge their confinement by seeking writs of habeas corpus. The decision may be a fair reading of Supreme Court precedents, but it shouldn't be taken as a blank check for treating the Bagram airfield as the sort of legal black hole Guantanamo was before the courts intervened. In a 2008 decision granting habeas rights to Guantanamo detainees, Justice Anthony M. Kennedy stressed that Guantanamo was an area over which the United States had "total military and civil control." By contrast, according to the U.S. Court of Appeals for the District of Columbia Circuit, Bagram is located in a "theater of active military combat" over which Afghanistan exercises practical as well as legal sovereignty. These are not distinctions without a difference, but they raise the possibility that Bagram could become what the George W. Bushadministration hoped Guantanamo would be: a place where suspected terrorists picked up anywhere in the world could be deposited indefinitely and denied meaningful opportunity to confront their accusers or meet with lawyers. It's notable that the three prisoners who sought habeas relief in this case say they were captured outside Afghanistan. Fortunately, the court reserved for the future the question of whether the government could transfer prisoners to Bagram or other combat zones "to evade judicial review of executive detention decisions." In our view, suspected terrorists captured outside Afghanistan should be treated the same as Guantanamo detainees, with the right to pursue habeas actions. As for prisoners at Bagram who were captured in Afghanistan, the appeals court was right to describe that country as a combat zone. But unlike a conventional war, in which the enemy wears uniforms and can be held until the end of hostilities, the war against the Taliban and Al Qaeda involves the possibility of mistaken identity. To its credit, the Obama administration last year instituted a new appeals process that allows prisoners, with the aid of a "personal representative," to challenge their incarceration. The administration should now work with human rights groups to ensure that this process offers a fair opportunity for inmates to assert their innocence. Otherwise, President Obama will be untrue to his insistence during his first week in office that he wanted to "restore the standards of due process and the core constitutional values that have made this country great even in the midst of war."

Prisoners are tortured in secret  
Ambinder 2010 (4/14/2010, Marc Ambinder, Politics Editor of The Atlantic "Inside the Secret Interrogation Facility at Bagram" <http://www.theatlantic.com/politics/archive/10/05/inside-the-secret-interrogation-facility-at-bagram/56678>)  
  
The Defense Intelligence Agency (DIA) runs a classified interrogation facility for high-value detainees inside Bagram Air Field in Afghanistan, defense and administration officials said, and prisoners there aresometimes subject to tougher interrogation methods than those used elsewhere. Both the New York Times and the BBC reported that prisoners who passed through the facility reported abuse, like beatings and sexual humiliation, to the Red Cross, which is not allowed access. The commander in charge of detention operations in Afghanistan, Vice Admiral Robert Harward, has insisted that all detainees under his purview have regular Red Cross access and are not mistreated. It has been previously reported that the facility, beige on the outside with a green gate, was operated by members of a Joint Special Operations Command (JSOC)  group, allegedly outside of Harward's jurisdiction. But JSOC, a component command made up of highly secret special mission units and task forces, does not operate the facility. Instead, it is manned by intelligence operatives and interrogators who work for the DIA's Defense Counterintelligence and Human Intelligence Center (DCHC). They perform interrogations for a sub-unit of Task Force 714, an elite counter-terrorism brigade. Called the "black jail" by some of those who have transited through it, it is a way-point for detainees who are thought to possess actionable information about the Taliban or Al Qaeda. Intelligence gleaned from these interrogations has often led to some of the military's highest profile captures. Usually, captives are first detained at one of at least six classified Field Interrogation Sites in Afghanistan, and then dropped off at the DIA facility -- and, when the interrogators are finished, transferred to the main prison population at the Bagram Theater Internment Facility. "DoD does operate some temporary screening detention facilities which are classified to preserve operational security; however, both the [Red Cross] and the host nation have knowledge of these facilities," said Bryan Whitman, a Pentagon spokesperson. "Screening facilities help military officials determine if an individual should be detained further and assists military forces with timely information vital to ongoing operations." Whitman would not say who ran the facility or provide any details. A DIA spokesperson declined to comment, as did the White House, which referred questions to the Pentagon. Under a directive issued by the commander of coalition forces in Afghanistan, Gen. Stanley McChrystal, those captured on the battlefield can be detained for only 96 hours unless they are deemed to possess intelligence value. In practice, military units can unofficially transfer detainees they pick up to other field  units before they arrive at interrogation sites, giving American and Afghan interrogators more time to ferret out useful information. According to other officials, personnel at the facility are supposed to follow the Army Field Manual's guidelines for interrogations. When he took office, President Obama signed an executive order banning the Central Intelligence Agency and the military from using techniques not listed in the manual. But he has a task force studying whether the expressly manual-approved tactics are sufficient. However, under secret authorization, the DIA interrogators usemethods detailed in an appendix to the Field Manual, Appendix M, which spells out **"**restricted" interrogation techniques. Under certain circumstances, interrogators can deprive prisoners of sleep (four hours at a time, for up to 30 days), to confuse their senses, and to keep them separate from the rest of the prison population. The Red Cross is now notified if the captives are kept at the facility for longer than two weeks. When interrogators are using Appendix M measures, the Undersecretary of Defense for Intelligence, Gen.James Clapper (Ret.) is the man on the hook. Detainees designated as prisoners of war cannot be subjected to Appendix M measures. The DCHC is a relatively new organization. It has several branches and has absorbed staff from the the now largely disbanded Strategic Support Branch, which provided CIA-like intelligence services to ground combat units. The DCHC also performs some of the work that the Counterintelligence Field Activity (CIFA), which was accused of spying on American political groups, used to do. Many of the staff, civilian and military, as well as many contractors, previously worked with CIFA. Defense officials said that the White House is kept appraised of the methods used by interrogators at the site. The reason why the Red Cross hasn't been invited to tour it, officials said, was because the U.S. does not believe it to be a detention facility, classifying it instead as an intelligence gathering facility. A Defense official said that the agency's inspector general had launched an internal investigation into reports in the Washington Post that several teenagers were beaten by the interrogators, but Whitman disputes this. When the Obama Administration took over, it forbade the DIA from keeping prisoners in the facility longer than 30 days, although it is not clear how that dictum is enforced.  It isalsonot clear how much Congress knows about the DIA's interrogation procedures, which have largely escaped public scrutiny. "In all our facilities the standard is humane treatment and all DoD detention facilities are required to be compliant with Common Article III, The Detainee Treatment Act, the Executive Order signed by the President last year, and the DoD Detainee Directive and the Army Field Manual," Whitman said. Although the CIA's enhanced interrogation program was investigated and a Justice Department prosecutor is currently reviewing those files, the Defense Department's parallel activities have been given little scrutiny. To this day, the Department denies the existence of a "special access program," codenamed "Copper Green," which allegedly authorized military interrogators to use extremely harsh methods, including the infliction of sexual humiliation, on high-value terrorists. Only about 200 military and civilian personnel were aware of Copper Green's existence before it was disclosed by the New Yorker's Seymour Hersh. The CIA's program, known internally by the acronym "GST," has been discontinued. Although "Copper Green" was disbanded, the Defense Department's detainee affairs section has set up a new special access program under which the rules for battlefield interrogationsare established. It is classified Top Secret. Bagram is in the middle of a major expansion, and the DIA facility is being renovated, officials said. Harward, a former special operations squadron commander, has said he hopes to turn the base over to the Afghan military by 2011.

Bagram is even worse than Gitmo  
Taylor 09 (6/25/09, The Examiner "Bagram: Obama's Gitmo, only worse" <http://www.examiner.com/x-8131-Sunset-District-Libertarian-Examiner~y2009m6d25-Bagram-Obamas-Gitmo-only-worse>)

There has been plenty of justified praise for President Obama as he slowly but surely closes the Gitmo Gulag. It is by well known that the Bush Regime used this prison, as well as others, to torture men who committed the “crimes” of resisting the American desert-killing fields in Mesopotamia and having Arab names. We later learned out from Blitzkrieg Rumsfeld that these “terrorists” were actually beaten, starved, deprived of sleep, and tortured with insects in an attempt to produce a false 9/11-Iraqi link. But what about the lesser known, and even crueler, military prison in Bagram, Afghanistan? What goes on at Bagram makes Gitmo look like a day-care camp. According to a 2,000 page U.S. Army report, two prisoners were chained to the ceiling and then beaten to death. Autopsies later revealed extreme trauma to both of their legs, describing it as similar to being run over by a bus. TheInternational Red Cross Report reported massive overcrowding, harsh conditions, threats of HIV-infection and sodomy, weeks of complete isolation, routine beatings, and stress positions (a favorite at Abu Ghraib). It went nearly unnoticed, but Obama’s “Justice” Department stated that it agreed with the previous Administration that the over 600 detainees at Bagram Airfield cannot use U.S. Courts to challenge their detention, and it only took two sentences. That's it. No investigations, no hearings, no discussions. Bush’s Military Commissions Act of 2006, one of the scariest pieces of legislation I’ve ever seen, was used to justify these indefinite imprisonments, and Obama’s silence on Bagram can only mean he condones this Caesar-esque power. Why is Obama closing one U.S. Gulag but keeping open another? Well, Gitmo is 90 miles off the shore of Florida, so its stain hits closer to home, and it’s a way of throwing a bone to his anti-war base while he pulls new war levers like a debt-ridden gambler at a casino. You might not know it from any of the Pharoah-fanning media, but Obama is doing his best Alexander the Great Slaughterer impression in Afghanistan as his 21,000 troop “surge” is beginning to arrive. In fact, the bombing of Afghanistan has increased every single month Obama has been in office. There’s going to be a lot more detainees headed Bagram’s way thanks to O-bomber (and his equally bloodthirsty Sec. of State Hillary the Hawk) as he spends $200 million dollars a day bombing the Afghan countryside. I bring up Obama’s torture two-face because tomorrow, June 26, is the International Day of Support for Victims of Torture. The CIA, FBI, and the Pentagram Pentagon might be up for weeks if they thought about all of their victims of torture, as well as the other rarely-discussed victims: the 5th and 8th Amendments of the Bill of Rights. The 8th protects against “cruel and unusual punishment,” and the 5th declares that no one “shall be compelled to be a witness against himself.” Obama, like Bush before him, is willing to use tortured confessions to prosecute detainees, and Obama’s civil liberties axe is just as sharp as Bush’s. On Torture Day, Obama’s White House will continue to be haunted by the ghosts of Bagram.

There have been at least 10 murders

**Worthington 10** (Andy, “When Torture Kills: Ten Murders In US Prisons In Afghanistan”, **http://www.andyworthington.co.uk/2009/07/01/when-torture-kills-ten-murders-in-us-prisons-in-afghanistan//**)

In addition, Omar Deghayes, a British resident who was also held at Bagram in this period (and who was released from Guantánamo in December 2007), explained, in a statement made public in August 2007, that he had witnessed two other murders in Bagram. Deghayes said that he “witnessed a prisoner shot dead after he had gone to the aid of an inmate who was being beaten and kicked by the guards” (“The American,” he explained, “said he tried to take the gun”), and that he was also nearby when another prisoner was beaten to death: “One by the name of Abdaulmalik, Moroccan and Italian, was beaten until I heard no sound of him after the screaming. There was afterwards panic in prison and the guards running about in fear saying to each other the Arab has died. I have not seen this young man again.” As I explained in an article at the time, these two murders were clearly not the same as that reported by Moazzam Begg, Richard Belmar and Jamal Kiyemba, and it appears, therefore, that there may have been five murders at Bagram in 2002.

The Supreme Court rulings on Guantanamo did not put an end to America’s practice of indefinite detention—prisons in Afghanistan now operate as legal blackholes where torture, muder, and unimaginable violence reign

Smith and Ratner, Human Rights Lawyer and President of the Center for Constitutional Rights, 2006 (2/27, Democracy Now, http://www.democracynow.org/2006/2/27/worse\_than\_guantanamo\_u\_s\_expands)

The U.S. is holding 500 at the base in wire cages at the Bagram Air Base, north of Kabul in Afghanistan. Some have been detained for up to three years. They have never been charged with crimes. They have no access to lawyers. They are barred from hearing the allegations against them. Officials describe the jail’s conditions as primitive. We speak with human rights attorneys Clive Stafford Smith and Michael Ratner. [includes rush transcript] "While an international debate rages over the future of the American detention center at Guantanamo Bay, Cuba, the military has quietly expanded another, less-visible prison in Afghanistan, where it now holds some 500 terror suspects in more primitive conditions, indefinitely and without charges." That is the opening line of a front-page article in Sunday’s New York Times detailing the US-run prison at Bagram Air Base, north of Kabul. The Times reports that some of the detainees at Bagram have been held for as long as two or three years. Unlike those at Guantanamo, they have no access to lawyers, no right to hear the allegations against them and only rudimentary reviews of their status as "enemy combatants." One Pentagon official told the Times the current average stay of prisoners at Bagram was 14.5 months. The numbers of detainees at the base had risen from about 100 at the start of 2004 to as many as 600 at times last year. The paper says the increase is in part the result of a decision by the U.S. government to shut off the flow of detainees to Guantanamo Bay after the Supreme Court ruled that those prisoners had some basic due-process rights. The question of whether those same rights apply to detainees in Bagram has not been tested in court. While Guantanamo offers carefully scripted tours for members of Congress and journalists, Bagram has operated in rigorous secrecy since it opened in 2002. It bars outside visitors except for the International Red Cross and refuses to make public the names of those held there. The prison may not be photographed, even from a distance. Citing unnamed military officials and former detainees, the Times reports that prisoners at Bagram are held by the dozen in wire cages, sleep on the floor on foam mats and are often made to use plastic buckets for latrines. Before recent renovations, detainees rarely saw daylight except for brief visits to a small exercise yard. The U.S. military on Sunday defended Bagram air base saying detainees there are treated humanely and provided "the best possible living conditions." But evidence of abuse of prisoners at Bagram has emerged over the years. In December 2002, two Afghan prisoners were found dead, hanging by their shackled wrists in isolation cells at the prison. An Army investigation showed they were treated harshly by interrogators, deprived of sleep for days, and struck so often in the legs by guards that a coroner compared the injuries to being run over by a bus. No one has been prosecuted for the deaths, though both were ruled homicides and the Army claims the men were beaten to death inside the jail. We are joined on the line by Clive Stafford Smith, a British-born human rights lawyer who represents 40 detainees at Guantanamo Bay, many of whom passed through Bagram Air Base. He is legal director of the charity Reprieve. We are also joined by Michael Ratner, president of the Center for Constitutional Rights.

Prisons in Afghanistan have become some of the worst in the world. Alongside brutal physical violence, inmates are psychologically tortured. Worst of all, we have only seen the tip of the iceberg.   
Goodman and Smith 2006 (Democracy Now Correspondent and Human Rights Lawer, 2/27,<http://www.democracynow.org/2006/2/27/worse_than_guantanamo_u_s_expands>))

**CLIVE STAFFORD SMITH:** Well, my response is that I think, as Michael and I and many others have said for a long time, Guantanamo is something of a distraction. That people—if you think people have been badly treated in Guantanamo, you should see what’s happened to them in other places, and what’s of real concern, arising out of the New York Times article, is this: The Times mentioned one flight. It was actually September 19, 2004 where ten people were brought to Guantanamo. I represent a couple of those. Of those ten, all of them are extraordinary cases where people were taken and abused horribly in other places.

One of my clients is Binyam Mohammed. He was rendered to Morocco. We’ve got the flight logs. We know the very names of the soldiers who were on the flight, and he was taken there, and he was tortured for 18 months, a razor blade taken to his penis, for goodness sake, and now the U.S. military is putting him on trial in Guantanamo. Hassin bin Attash, a 17 year-old juvenile who was taken to Jordan and tortured there for 16 months. There is a series of these people.

Now, what that prompts is this question, that the people who have been most mistreated in Guantanamo were mistreated elsewhere, and then the administration took a very small number of them to Guantanamo, but the vast majority of them are either in Bagram or in these secret prisons around the world. And most recently, we heard of Poland. We’ve heard of Morocco. We’ve heard of various places.

What I’m afraid is the truth is that the most shocking abuses have yet to come to light, that these people are in Bagram and have yet to talk to anybody, and what the administration is doing is hiding these ghastly secrets. Now, the question is: What are they going to do about that? What are they going to do when it becomes necessary at some point for these prisoners to be given lawyers? There’s a lot of horror stories, and the administration is just not going to want those horror stories to come out. So where are these prisoners going to be sent? Are they going to vanish forever?

And unfortunately, the U.S. administration has shown that it is willing to send people to Egypt, where they may disappear, to Morocco, where they get razor blades taken to them, and we’ve got to find out the names of these people first, because the government won’t tell us, and then we’ve got to prevent them from being rendered to some country where they effectively die after a bit of torture.

I’ll be glad to go on to the British part, but I know I have talked too much. I don’t want to rant on forever.

**AMY GOODMAN:** Clive Stafford Smith, I wanted to ask you about a piece that appeared in a paper in your country in the Guardian by Suzanne Goldenberg and James Meek. It says, "New evidence has emerged that U.S. forces in Afghanistan engaged in widespread Abu Ghraib-style abuse, taking trophy photographs of detainees and carrying out rape and sexual humiliation. Documents obtained by the Guardian contain evidence that such abuse took place in the main detention center at Bagram, near the capital, Kabul, as well at a smaller U.S. installation near the southern city of Kandahar. A thousand pages of evidence from U.S. Army investigations released to the ACLU after a long battle, made available to the Guardian."

And then inside, it says, "The latest allegations from Afghanistan fit a pattern of claims of brutal treatment made by former Guantanamo Bay prisoners and Afghans held by the U.S. In December, the U.S. said eight prisoners had died in custody in Afghanistan," and this is according to you, "A Palestinian says he was sodomized by American soldiers in Afghanistan. Another former prisoner of U.S. forces, a Jordanian, describes a form of torture which involved being hung in a cage from a rope for days. Hussein Abdelkader Youssef Mustafa, a Palestinian living in Jordan, told Clive Stafford Smith he was sodomized by U.S. soldiers during detention at Bagram in 2002. He said, 'They forcibly rammed a stick up my rectum—excruciatingly painful. Only when the pain became overwhelming did I think I would ever scream, but I could not stop screaming when this happened.'"

**CLIVE STAFFORD SMITH:** Yeah, you know, Hussein Mustafa, I met with him in Jordan, and he was an incredibly credible person. He is a dignified older gentleman, about now 50 years old, and he wanted to talk about what had happened to him, but he really didn’t want to talk about that sexual stuff, and in the end, you know, I said to him, "Look, you don’t have to, but it’s very important if things happened, that the story get out, so they don’t happen to other people," and in the end he did, and it was in front of half a dozen people who were just transfixed as he described how four soldiers took him, one on each shoulder, one bent down his head and then the fourth of them took this broomstick and shoved it up his rectum.

Now there was no one in that room—and they were from a variety of places—who didn’t believe that what this man was saying was true, but I am afraid, i’ve got to tell you, that that’s far from the worst that’s happened. When you talk about Bagram, when you talk about Kandahar, those aren’t the worst places the U.S. has run in Afghanistan. The dark prison, sometimes called "Salt Pit," in Kabul itself, which is separate from Bagram, has been far worse than that, and I can tell you stories from there that just make your skin crawl.

**AMY GOODMAN:** Well, why don’t you tell us something about this place?

**CLIVE STAFFORD SMITH:** Yeah, i’ll tell you some of the ones, for example, that Binyam Mohammed told me. He was the man who had the razor blade taken to him. He was then taken, and again, we can prove it. We’ve got the flight logs. He was taken on January 25, 2004, to Kabul, where he was put in this dark prison for five months, and he was shackled. You just get this vision of the Middle Ages, where he’s shackled on the wall with his hands up, so he can’t quite sit down. It’s totally dark in that place.

When the U.S. says that people are being treated nicely in Bagram, you’ve got to be kidding me. It’s the middle of winter, and they’re freezing to death, and this man was in this cell, no heating, absolutely freezing, no clothing, except for his shorts, totally dark for 24 hours a day with this howling noise around him. They began with Eminem music, interestingly enough; they played him Eminem music for 24 hours a day for 20 days. Seems to me Eminem ought to be suing them for royalties over that, but then it got worse and they started doing these screeching noises, and this is going on 24 hours a day, and in the mean time they would bring him out very briefly just to beat him, and this is to try to get this man to confess to stories that they now want him to repeat in military commissions in Guantanamo, and they want to say, "Oh, everything’s nice now."

And what he went through, he said, was far worse than the physical torture, this psychological torture that some pervert was running in the dark prison in Kabul was worse to him, and he still suffers from it day in, day out, because of what it has done to his mind, and this is the—what we have to remember is there is someone out there who is thinking this stuff up and who is then saying that we need to do it, and this isn’t some lowly guard who loses control and does something terrible that’s physical. I mean, that’s awful. But you’ve got someone out there who is thinking through how we’re going to torture these people with this excruciating noise and these other things, and they’re doing this very, very consciously, and the story has a long way before it’s going to be out fully.

Prisoners will be given more rights in the status quo, but it's not enoughSynovitz 09(Radio Free Europe Radio Libery, article written with collaboration from Afghanistan correspondent Hamid Mohamand.)New rules being prepared by the Obama administration would reportedly allow more than 600 suspected Taliban and Al-Qaedaprisoners at a U.S.-run prison in Afghanistan to challenge their incarceration**.** The guidelines for the U.S. military facility at Bagram Air Field, to the north of Kabul, have emerged as the administration reviews Bush-era detention policies and studies what changes should be made. "The Washington Post" and "The New York Times" newspapers are reporting details of proposed rule changes that were given to Congress in mid-July for a 60-day review. They are expected to be officially made public later this week. Sam Zia Zarifi, the Asia-Pacific director for Amnesty International, argues thatthere is no legal basis for the existence of U.S.-run prisons in Afghanistan. Zarifi says that the system created by the Bush administration has hampered the efforts of the international community to establish the rule of law in Afghanistan. Zarifi says that when the administration asked Major General Douglas Stone "to review the problems of the Bagram detention facility," Stone "came back and appropriately pointed out that the lack of a legal structure for Bagram means that it is undermining the rule of law in Afghanistan and it has caused a lot of resentment among Afghans." "This is, as a process, completely counterproductive to what the Afghan government and its allies -- especially the United States -- want to accomplish in Afghanistan," Zarifi continues.  "If you want to establish the rule of law, if you want to signal that you respect human rights, you can't do it while you are running an illegal detention facility." Closer To Legal Representation According to reports on the new plan, a U.S. military official would be assigned as a representative for each Bagram prisoner. All detainees at Bagram also would be given a chance to go before newly created "detainee review boards" to have their cases considered.  
Detainees at Bagram have had even fewer rights than those held at Guantanamo Bay, Cuba. Human rights activists say they welcome any move that gives Bagram detainees some legal representation and protections. They say the plan would mark the first time Bagram prisoners have been allowed to challenge their detention by calling witnesses and submitting evidence in their defense. Still, Zarifi says Amnesty International is treating reports about the plan with caution and skepticism. Ultimately, he says, detainees should be represented by lawyers rather than U.S. military officers. "We've seen the Bush administration try something like this in Guantanamo with the Administrative Review Board process. The U.S. courts found that process quite deficient. And in practice, it didn't really work very well," Zarifi explains. "So the best way forward, in fact, would be to just have lawyers represent the detainees." An order creating the review boards at Bagram was signed in July by Deputy Defense Secretary William Lynn. AP reported that some military officers serving in Afghanistan already have been assigned to the boards and that some personal representatives for detainees have been identified. AP also quoted an unnamed Pentagon official as saying that the review-board system at Bagram would be more like a system used in Iraq than at Guantanamo. In Iraq, authorities used review boards to help determine which detainees posed the greatest threat and which could be rehabilitated and released. Afghan Prisoners' Rights In Kabul, Afghan human rights activists also welcomed reports that the Obama administration is planning to let Bagram prisoners challenge their detention. Lal Gul, chairman of the Afghan Commission for Human Rights, has been pushing for years for Bagram detainees to have access to legal representation. Gul says that the jailing of suspects without giving them access to courts, defense lawyers, or family members is a violation of both Afghan and international law. Gul also says he agrees with demands from the Justice Ministry that all Bagram detainees from Afghanistan should be dealt with according to Afghan law. "While an independent judiciary exists in a country, the U.S. government or another foreigner has no right to arrest its citizens and detain them indefinitely," Gul says.  "We have criticized such American actions in the past. And we have termed them as against human rights norms and that those arrests and detentions are illegal." Prisoners themselves -- some of them held at Bagram for more than six years without trial -- have also been protesting their treatment. Officials from the International Committee of the Red Cross have indicated that Bagram detainees have been refusing privileges since July as a protest against their lack of legal rights. Meanwhile, Zarifi notes that the United States is also running detention facilities in Afghanistan outside of Bagram and, in some cases, is turning suspects over to the Afghan government for detention elsewhere. He says Amnesty International and other human rights groups are closely monitoring what other steps will be taken by the Obama administration to create a legal framework for the handling of all detainees in Afghanistan.

A2: Torture Good

Torture does not provide accurate information  
Davia 08(Cory, article from the Center for American Progress published December 10, 2008, intern with the Faith and Progressive Policy Initiative at CAP.)  
  
The evidence does not support this claim; torture is an unreliable method of gathering accurate information because the victim will say virtually anything to make the torture stop. The CIA documented this reality in a recent collection of articles that concluded that pain and torture-like threats are unlikely ever to lead to true, verifiable, or actionable information from those being interrogated**.** One contributor writes that the scientific community “has never established that coercive interrogation methods are an effective means of obtaining reliable intelligence information.” The CIA’s research—and interrogators’ experience—shows that torture is ineffective, even when assuming that the person being tortured is without a doubt the one who possesses needed information, a claim that is itself fraught with uncertainty.

Justifying torture increases the likelihood torture will be used  
Silverglate 01(Harvey  was educated at Bogota (NJ) High School (Class of 1960), Princeton University (Class of 1964, cum laude in History), and Harvard Law School (Class of 1967) He is an author and a practicing attorney specializing in civil liberties. This is a famous quotation from him regarding the immorality of torture)  
"Institutionalizingtorture will give it society’s imprimatur, lending it a degree of respectability. It will then be virtually impossible to curb not only the increasing frequency with which warrants will be sought - and granted - but alsothe inevitable rise in unauthorized use of torture. Unauthorized torture will increase not only to extract life-saving information, but also to obtain confessions (many of which will then prove false). It will also be used to punish real or imagined infractions, or for no reason other than human sadism. This is a genie we should not let out of the bottle."

Qatani case proves the ineffectiveness and brutality of torture  
Kate KovarovicJD Candidate, 2010 American University Washington College of Law

A closer examination of the Qatani case supports these contentions. Qatanti had clearly been conditioned to withstand torture, like many suspects in his position. When he did risk revealing crucial information, he resorted to textbook answers found in an al-Qaeda handbook. Logs kept of Qatani’s treatment suggest that on the few occasions when honest disclosures were obtained, it was “not when al-Qatani was under duress but when his handlers eased up on him.”97 However, under the guise of a ticking time bomb, the government persisted with its torture of Qatani for over three months. At the end of this period, Qatani was found to be completely incoherent and illogical, and the government had obtained no information about a terrorist threat, imminent or otherwise. The Qatani case also raises crucial but often overlooked questions regarding what restrictions should be placed on the ticking time bomb exception, such as possible timelines. In the event of an actual ticking time bomb, there is a chain of command that must be followed which considers “to whose attention the facts regarding the planted time bomb must first be brought . . . [and then the interrogator must] move forward to gather information, locate the suspects, arrest them, and interrogate those who really have knowledge of the planted bomb.”98 This is not as imminent a process as the public believes. It seems that there must be more efficient methods of utilizing the government’s time and resources than to torture a suspect who may or may not be compelled to speak and who may or may not reveal legitimate information.

Torture is portrayed as ethically sound by the government  
Kate KovarovicJD Candidate, 2010 American University Washington College of Law

This is known as the “ticking time bomb” exception, where countries that have legally prohibited the use of torture can resort to the use of torturous methods in the face of an imminent and large-scale catastrophe, in order to compel a suspect to reveal crucial information. The use of the ticking time bomb scenario was an especially popular tactic of the Bush administration during the War on Terror, when senior officials relied on ticking time bombs to justify the torture of terrorism suspects. Despite the government’s frequent invocation of the ticking time bomb exception to justify its acts of torture, “[m]ost terrorism experts will tell you that the ‘ticking time bomb’ situation never occurs in real life, or very rarely.”2 However, this scenario is posed with an almost alarming regularity in an attempt to garner public support for the use of torture in limited circumstances. By posing these ticking time bomb scenarios, the public “can for the first time think of torture disassociated from cruelty—[this is instead] torture authorized and administered by decent human beings who abhor what circumstances force them to do.”3 Thanks to ticking time bombs, torturers are seen as today’s greatest heroes while victims are dehumanized and stripped of their most basic human rights.

**The 'success' of torture comes from calculatedly misconstrued reports**Kate KovarovicJD Candidate, 2010 American University Washington College of Law  
  
Aside from strong legal precedent prohibiting the use of torture, there are also moral boundaries to be considered. **As the United States glorifies the use of torture under the justification of a ticking bomb, one must ask what we get in return. The public assumes that after a detainee has been tortured they will surrender valuable information** that saves thousands of lives. **This is rarely the case**. Often **prisoners have been conditioned to withstand torture**, and choose to die at the hand of their captor rather than reveal what information they have. In other instances, **victims forfeit already-known details or create falsified evidence in an effort to subdue their torturers.** This was certainly the case with **Mohamed Qatani, touted by the Bush administration as one of the most successful ticking time bomb exceptions to date**. Yet **the administration** was silent when it was **later revealed that nothing Qatani disclosed “helped prevent terrorist attacks, imminent or otherwise.”**

Torture is empirically done even when not necessary- this proves our nations reliance on toture  
Kate KovarovicJD Candidate, 2010 American University Washington College of Law  
  
Foreign legal policy professional Henry Shue contends that ticking time bomb advocates idealize their hypothetical to make their examples better than reality.23 Advocates assume not that the detainee is a suspected terrorist, but that he is in fact a terrorist. They assume that the detainee divulges crucial information in a prompt and accurate fashion; that “he does not have a heart  
attack and pass out; he does not vomit on himself and have a psychotic break; he does not tell a plausible diversionary lie that wastes the time available.”24 Perhaps most importantly, they assume that once the crucial information is revealed that the detainee’s handlers will contain the self-restraint to abandon the principle of “practice makes perfect.”25 But is this really the case? If history serves as any indication, it certainly is not. Instead, Luban warns that “at this point, we verge on declaring all military threats and adversaries that menace American citizens to be ticking time bombs whose defeat justifies torture.”26 This rationale is promoted by ticking time bomb advocates around the world. Take for example the oft-cited case of Abdul Hakim Murad, who was detained in Manila in 1995.27 The local government touted the ticking time bomb exception here as an indisputable success. Officials claimed that after sixty-seven days of severely torturing Murad, they obtained details which allowed them to stop a plot to blow up a dozen trans-Pacific aircrafts carrying as many as 4,000 innocent passengers.28 During this time Murad suffered incessant beatings and the use of techniques such as burning his genitals with cigarettes.29 And yet, it was later revealed that none of the information obtained by Manila police was the result of torturing Murad.30 Instead, all crucial information regarding the bomb plot was found on Murad’s laptop within minutes of it being seized.31 One Filipino officer even testified in a New York court that all supposed details gained from the torture were fabrications fed to Murad by the Philippine police.32 This is a familiar tactic employed by governments claiming the ticking time bomb exception: after brutally torturing (sometimes to the point of death) a terrorist suspect, governments will glorify the information received in an effort to escape global condemnation for its acts. This was an especially popular technique during the Bush administration’s reign during the War on Terror. President Bush defended the use of an “alternative set of procedures”33 on Abu Zubaydah, claiming intelligence produced by these methods stopped a “succession of lethal ticking bombs. The mind-boggling catalogue of these plots . . . included ‘Al Qaeda’s efforts to produce anthrax,’ a terror assault on U.S. Marines in Djibouti with ‘an explosive-laden water tanker,’ ‘a planned attack on the U.S. consulate in Karachi using car bombs’ . . . ”34 and the list goes on. Just four days after Bush’s speech, the FBI reported to The New York Times that it received key information from Zubaydah only with the use of non-coercive measures and that other agencies had already possessed most of his “supposedly vital intelligence.”35

Torture is committed in violation of domestic and International lawsKate KovarovicJD Candidate, 2010 American University Washington College of Law

To create an exception for the use of torture would clearly violate both national and international legal standards. The American legal system is based on the ideals of due process and human dignity. To allow an individual to be tortured, even under the ticking time bomb scenario, would not only violate years of court precedent and statutory law but the very foundation of our legal system: the Constitution. The use of torture under any circumstances is also clearly prohibited by international treaties such as the UN Convention against Torture and the ICCPR, both of which the United States has ratified and thus undertaken to enforce. A. U.S. LAW In the same speech where he justified the torture of Abu Zubaydah, President Bush encouraged “Congress and the Supreme Court [to] simply set aside their constitutional qualms about these ‘tough methods’”36 so that the CIA could continue to “obtain information that will save innocent lives.”37 However, President Bush never claimed that his opponents didn’t have a legitimate constitutional argument against the use of torture in a ticking time bomb scenario; he simply that he felt those “qualms” (or what some could call “valid legal arguments”) should be set aside. Unfortunately for President Bush and his fellow ticking time bomb advocates, the laws cannot simply be pushed aside when those in charge disagree with them. An examination of the basic principles that guide our legal system reveals that the use of torture under any circumstance constitutes a breach of U.S. law. Under international law, torturers are known as hostis humani generis, or “enemies of all humanity.”50 The international community has undertaken to proscribe the use of torture since the drafting of the Third Geneva Convention51, which was adopted in 1929 to address the treatment of prisoners of war. Although the Third Geneva Convention does not explicitly define torture, its use is qualified as a grave breach of the Convention.52 However, the Convention’s deficiencies became clear after World War II, as the Nazis employed new and brutal methods of torture. In response, the international community sought more effective avenues to prohibit the use of torture. Today, the U.S. is bound by two of these covenants, which expressly forbid the use of torture under any circumstances: the ICCPR53 and the Convention against Torture.54 A closer examination of the text of these covenants reveals that they allow for no exceptions to the use of torture, including ticking time bombs.

Public/Governmental Spillover:

47% of the American public supports torture  
The Atlantic 08(10/14/2008, "America: The Global Pioneer of Torture" <http://andrewsullivan.theatlantic.com/the\_daily\_dish/2008/09/america-the-glo.html#more>)

A new survey of global public opinion [PDF] reveals the appalling truth. Americans are now among the people on earth most supportive of government's torturing prisoners. The United States is in the same public opinion ballpark as some of the most disgusting regimes on the planet: Support for the unequivocal position was highest in Spain (82%), Great Britain (82%) and France (82%), followed by Mexico (73%), China (66%), the Palestinian territories (66%), Poland (62%), Indonesia (61%), and the Ukraine (59%).   In five countries either modest majorities or pluralities support a ban on all torture:  Azerbaijan (54%), Egypt (54%), the United States (53%), Russia (49%), and Iran (43%).  South Koreans are divided. So America's peers in the fight against torture, in terms of public opinion are Azerbaijan, Egypt, Russia, and Iran. This is what America now is: a country with the moral values of countries that routinely torture and abuse prisoners, like Egypt and Iran. Even the Chinese, living in a neo-fascist market state, oppose torture in all circumstances by 66 percent, compared to Americans where only 53 percent do! More horrifying:a higher percentage of Americans - 13 percent - believe that torture should generally be allowed than in any other country save China, Turkey and Nigeria. And in the last two years, as the American president celebrates and authorizes the torture of people who have not been allowed a fair trail, support for torturing terror suspects has increased from 36 percent to 44 percent. The only other countries where support for torturing terror suspects has grown are India, Nigeria, Turkey, South Korea and Egypt. In all other developed countries, support for an absolute ban on torture has actually risen in the past two years. America is now leading the way in legitimizing and celebrating torture as a legitimate tool for governments. This is the Bush-Cheney legacy - to be continued under McCain-Palin. McCain was once a torture victim, but since 2006 has supported the torture of prisoners by the CIA. In fact, prisoners across the world who have been tortured by the CIA in the last two years can, in the terror of their cells, know that John McCain made it possible, by caving into the war criminals in the White House in 2006. How can the country that pioneered the Geneva Conventions now be a nation more supportive of torture than any other developed nation on earth? Of course, it matters that we have had a president and vice-president actively endorsing and campaigning for the use of torture, and torturing prisoners routinely in jails where there is no escape and no due process. But the key segment of the pro-torture enthusiasts are evangelical Christians. Yes: evangelical Christians are now the greatest supporters of doing to prisoners what was once done to Christ.

Government actions legitimize torture for the public  
Pope 01 (Kenneth S Pope, October 2001, "Resources for Torture Survivors, Refugees, Asylum-Seekers, & People Affected by War" <http://www.kspope.com/torvic/torture-abst.php#copy>)

The citizens of a state, including those who engage in torture, may claim that the state is the source of legitimacyand whatever procedures the state initiates must by definition be considered legitimate. In authoritarian states, the ruler's authority may seem to bestow its own inherent legitimacy. Citizens who engage in torture ordered by the state may argue that their role is to act in obedience to and on behalf of the state, regardless of their personal views. Citizens who are not direct participants in the torture may argue that such matters are none of their business, that they are not expected to understand or even be aware of state procedures and rationales. For all citizens in authoritarian states, questioning the authority of the state may be viewed as contrary to the interests of the state and the role of the citizen. In many authoritarian states, questioning the state's authority may be punished severely, sometimes by execution without trial. In democratic states, on the other hand, the fundamental principle may be seen as "government by law," conferring legitimacy to the actions the lawrequires or permits. Individuals may be expected to conform their actions to a law, however much they may disagree with it. They may work to change a law viewed as wrong or unjust but, pending that change, may be expected to obey. Within this narrow framework (which does not embrace civil disobedience or other ways of challenging laws believed to be unjust), citizensmay believethatno one is "above the law," that no one can simply pick and choose which laws to obey and which to ignore. Those acting under legal authority as members of the state or local police, of the military, of the government's internal or external intelligence or security forces, etc., may argue that their role is to follow orders from their legally appointed supervisors. Combat soldiers, for example, may point out that a normal part of their work involves inflicting wounds or death on enemy soldiers and that they are in no position to question assignments that they find repugnant. The claim that a state's authority, laws, or orders can legitimize torture focused the world's attention during the Nuremberg and similar trialsafter World War II. Those who participated in the inhumane medical experiments and other forms of torture that were a part of the Nazi atrocities defended their acts by saying that they were just doing what the state required them to do. They were "just following orders." The war crimes courts, however, held that this was not a valid defense for engaging in torture and other war crimes.

After the rulings of the war crimes courts following World War II, other organizations began to emphasize explicitly that individuals could not evade responsibility for inflicting or condoning torture and that torture itself could not be legitimized through "orders." *The Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment*, for example, stated clearly: "An order from a superior officer or a public authority may not be invoked as a justification of torture."

We have become a society fixated on torture- we need to take a stand nowKate KovarovicJD Candidate, 2010 American University Washington College of LawThe September 11th attacks drastically altered Americans’ perception of torture. Prior to the attacks, less than four acts of torture appeared on prime-time television every year.80 As of 2007, this number had jumped to over 100.81 Not only has the amount of scenes quadrupled, but so has the general landscape of a torture scenario. As noted by David Danzig, a project director at Human Rights Watch, “the torturers have changed. It used to be almost exclusively the villains who tortured. Today, torture is often perpetrated by the heroes.”82 One of the most noted heroes on television today is Jack Bauer, protagonist of the series 24. The character is known as the lead agent of the fictional Counter Terrorist Unit, and for good reason: by the end of an hour-long program, Jack Bauer will have inevitably saved the country, and the world, from some horrific terrorist plot.

This fixation impacts the everyday ethic of the American public  
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But what impact does this have on Americans’ ethical standards? In the words of David Luban, “the torturer is [now] a conscientious public servant, heroic the way that New York firefighters were heroic, willing to do desperate things . . . the time bomb clinches the great divide between torture and cruelty . . . .”89 In the ticking time bomb scenario, America not only allows torture, it demands it. Shows such as 24 have had such a worrisome impact on American values that U.S. Army Brigadier General Patrick Finnegan, dean of the US Military Academy at West Point, has personally sought out the team behind 24. Accompanied by three of the most experienced military and FBI interrogators in the country, Finnegan approached the writers at 24 to assert the belief that the “show’s central political premise—that the letter of American lawmust be sacrificed for the country’s security—was having a toxic effect.”90 Finnegan argues that not only is the show hurting the county’s image internationally, but that it has a seriously detrimental impact on the training and performance of our nation’s troops. Finnegan, a lawyer himself, trains his cadets to consider not only what is legal on the battlefield but also what is moral. Since the creation of 24, Finnegan notes it has become increasingly difficult to convince cadets that America must respect both the rule of law and human rights despite a terrorist’s actions. In the context of 24, cadets recognize that while “torture may cause Jack Bauer some angst, it is always the patriotic thing to do.”91 What these cadets don’t realize is that in the context of U.S. and international law, Bauer has broken the law and that in real life he would be prosecuted. Joe Navarro, Finnegan’s colleague and himself one of the FBI’s top experts in interrogation techniques, also notes that cadets don’t consider the psychological impact of torturing another person. As Navarro puts it, “only a psychopath can torture and be unaffected. You don’t want people like that in your organization.”92 To make allowances for the ticking time bomb exception would only encourage the unrealistic expectations of the American “Jack Bauer culture” and place our cadets in the position where they glorify the impact of torture and downplay the certain legal ramifications that follow.

International Human Rights:

Obama pushing for International Human Rights  
LA Times 09(4/18/09, Opinion article, "Obama and Human Rights", <http://articles.latimes.com/2009/may/18/opinion/ed-council18>)  
  
The Obama administration says it is committed to protecting human rights and supporting multilateral institutions, and the decision to seek a place on the United Nations Human Rights Council was a step in that direction. We are pleased that the General Assembly voted overwhelmingly last week to seat the United States on the council for the first time since its creation in 2006. The council was set up to replace the U.N. Human Rights Commission, which was ineffective. Critics are correct that thistoois a flawed organization. Many countries on the 47-seat council are cited by international organizations as human rights violators, including other new members Cuba, Saudi Arabia and China. Some governments have used their membership to deflect criticism from their own abuses. And the council has focused disproportionately on Israel's treatment of Palestinians at the expense of other pressing issues in countries such as Zimbabwe, Sudan and Myanmar. Opponents see these as reasons to shun a discredited council, butwe believe they are reasons to engage. An intergovernmental agency is by definition political and often problematic. In this case, that means joining forces with countries that may not stand up to international scrutiny on human rights -- the same countries the United States works with at the United Nations and in many other international forums. Nothing is to be gained by remaining on the sidelines; the U.S. cannot exercise leadership in a group to which it does not belong. By joining the council, the U.S. has an opportunity to help reform it and build it into a credible advocate for human rights. In 2011, the council must undertake a universal periodic review of its procedures and the human rights records of all 192 U.N. member states. The U.S. can help ensure that both are done professionally and honestly. We hope that joining the council will help mend the Bush administration's confrontational relationship with the United Nations and overcome its legacy of abuses committed in the name of the "war on terror." But here's where things get complicated: Obama administration decisions last week to withhold photographs of detainees being abused and to continue Bush-era military commissions for prosecuting terrorism suspects cast doubt on the president's commitment to cleaning house. So too does a threat to halt intelligence-sharing with Britain if a British court makes public details of interrogation techniques used against a former Guantanamo Bay prisoner. In addition to reforming the Human Rights Council, we would like to see the Obama administration articulate a human rights agenda to pursue on the council, be it for rule of law or women's rights, or against torture. Of course, it's not enough to support an agenda; the United States must also follow one.

Extension:  
  
Obama Administration committed to Human Rights

Huffington Post 09(12-16-2009 The Perils of Pragmatism, Hicks)

In the past week theObama administration has taken steps to clarify and disseminate its policy with respect to the promotion of human rights and democracy. Following on the heels of an administration that liked to define the purpose of U.S. foreign policy as expanding freedom around the world and ending tyranny, the Obama administration has looked for a different approach and a different vocabulary to describe the place of human rights promotion in the foreign policy mix. This quest for a new policy message has looked like “downplaying human rights” to some, so the administration’s efforts may be seen as a response to its critics. In his Nobel Peace Prize acceptance speech in Oslo on December 10, President Obama spoke about the interconnectedness of peace and human rights and made clear his commitment to human rights promotion. Interestingly, the language of his speech took a concept found in ringing declarative tones in President George W. Bush’s Second Inaugural Address. “America’s vital interests and our deepest beliefs are now one” and expressed it as a double negative: speaking about the inherent rights and dignity of every individual, President Obama said, “neither America’s interests– nor the world’s– are served by the denial of human aspirations.” In other words, just like his predecessor, President Obama affirmed that human rights promotion serves the national interest of the United States of America. National Security Advisor, General James Jones, was more forthright in a statement he issued after a meeting he convened with leaders of U.S. based human rights organizations at the White House, also on December 10. Jones’s statement said that in the meeting he had “reiterated the President’s strong and unwavering commitment to the advancement of human rights and democracy around the world,” and he listed the administration’s achievements to date.

Torture undermines US leadership on Human RightsHilde 09 (Thomas C. Hilde is a professor at the University of Maryland School of Public Policy where he teaches seminars in ethics and policy and international environmental and development law and politics. , "Restoring US credibility on Human Rights" <http://www.boell-meo.org/web/113-239.html>)  
  
How to restore the credibility of a country whose foundations and self-understanding are based on the universality of freedom and human rights, but thathas violated precisely those rights by practicing torture in Guantánamo and other prisons around the world? The image of the United States as a role model of liberal democracy has suffered tremendouslyover the last eight years. In the name of the global war on terror, former President Bush suspended the law for those detained as possible terrorists. Even though President Obama’s promise to close Guantánamo is recognized by the international community as a first step towards restoring U.S. credibility, several problems require comprehensive policy solutions: How to proceed with detainees that are considered to be dangerous? What to do with detainees who are cleared of suspicion, but might face torture in their country of origin? How to cope with evidence that is derived from torture? Thomas C. Hilde outlines several post-Guantánamo detainee policy proposals – and their difficulties – that address these distinctive sets of issues, such as military commission trials, continued preventive detention, a national security court or U.S. criminal court trials. In the long run, however,restoring credibility through a reformed detainee policy is only one component of post-Guantánamo credibility; the second indispensable element is accountability. Prof. Hilde discusses the functions of different forms of accountability in the process of reestablishing U.S. credibility on human rights. Whereas legal accountability requires the formal investigations of human rights violations, public-moral and pragmatic accountability refer to the need to address the norms on which international society is based. Moreover, a public discourse is needed that confronts the stories of those who have suffered human rights violations and the empathetic aspect of human rights. A more comprehensive form of accountability can serve as both a means towards regaining U.S. credibility and a strengthening of human rights culture.

Torture damages the entire society that endorses it  
Davia 08(Cory, article from the Center for American Progress published December 10, 2008, intern with the Faith and Progressive Policy Initiative at CAP.)

The benefits of torture will never outweigh its costs because torture damages society in innumerable ways and creates even more danger. For instance, acts of tortureoften motivate terrorists and give fuel to their cause. Torturealso makes those who are initially moderate more extreme in their views and more sympathetic to terrorists. And torture increases the risk of hasty, misdirected military action. The now-discredited intelligence claiming that Iraq possessed weapons of mass destruction was obtained through torture. Furthermore, the use of torture undermines respect for rule of law both within the United States and internationally. An act of torture does not occur in a vacuum**.** Torture requires training and supervision, the production of torture devices, and research by the medical and scientific community about ways to inflict the most pain without killing or incapacitating victims. Torture requires a culture of torture, and this infrastructure has the potential for myriad unintended abuses.

The US must abandon torture to provide an international exampleDavia 08(Cory, article from the Center for American Progress published December 10, 2008, intern with the Faith and Progressive Policy Initiative at CAP.)

There is much work to be done to convince the many Americans who still believe that torture can be justified. Faith communities are an important part of this effort, as their work affirms that torture is not an abstract national security option but a serious moral issue. And abandoning the idea of torture is not only the best policy option for resurrecting the United States’ international legitimacy; it is also the only morally acceptable option. The United States must stop any and all instances of torture, close any legal loopholes that allow it, and shut down the prison at Guantanamo Bay. We should also renew our focus on international cooperation against threats such as terrorism and climate change that challenge us all. But we should not make the mistake of thinking that such changes will make everything right again. Moving past torture and reestablishing the United States as a moral leader will mean acknowledging that these abuses happened on our watch, and that reasonable fears can lead to grave abuses unless we are vigilant in upholding our nation’s founding commitments to human dignity and the rule of law. Getting our moral authority back will mean applying these principles consistently, both at home and abroad.

Ethics:

We have an ethical obligation to stop torture  
Behnke 08(Stephen H. Behnke, JD, PhD, For a Hearing on Torture and Health Professionals January 14, 2008, <http://www.apa.org/ethics/programs/position/reports/behnke-ca-comment.aspx>)

Mr. Chairman and Members of the Committee, thank you for giving me the opportunity to speak with you today about the issue of torture, as well as comment on the provisions of Senate Joint Resolution 19. I am Dr. Stephen Behnke, a clinical psychologist and lawyer who serves as Director of the American Psychological Association Ethics Office. The American Psychological Association (“APA”) is a scientific and professional organization of more than 150,000 members and affiliates. For the past three years, APA has been examining in great depth the ethical aspects of psychologists’ involvement in interrogations. I would like to state at the outset thatit is extremely important to keep separate “interrogation” from “torture.” A competent, ethical interrogation never involves torture. Torture is antithetical to the goals of respecting human dignity and of eliciting information that will help to prevent acts of violence and save lives. APA’s position is built upon three foundations: First,torture is immoral and unethical.APA has been explicit and emphatic that psychologist participation in torture is always prohibited. There are no exceptions to this prohibition. Second, competent and ethical interrogations, conducted for the purpose of preventing acts of violence, are based upon an understanding of an individual’s motivations and beliefs, that is, on an understanding of the individual’s personal psychology. Third and finally, as experts in human behavior and motivation, psychologists have valuable and ethical contributions to make in assisting interrogation processes. I would like to elaborate briefly on each of these three points and then comment about the resolution in its current form. First, torture is always immoral and unethical. For over 20 years, APA has been explicitand emphatic thatpsychologist participation in torture is always prohibited. APA passed its first resolution against torture in 1985, passed another in 1986, and over the past three years has issued three more texts each of which unambiguously states that any form of psychologist participation in torture is unethical and prohibited. As an example of this strict and clear prohibition, I will read a statement from the 2005 APA Report of the Task Force on Psychological Ethics and National Security, which is typical of the several other statements APA has made against torture: Psychologists do not engage in, direct, support, facilitate, or offer training in torture or other cruel, inhuman, or degrading treatment. At APA’s annual meeting this past August in California, APA’s Council of Representatives, the Association’s governing body, passed a resolution that prohibited 19 specific techniques associated with “enhanced” interrogations. Among the prohibited techniques are waterboarding, mock executions, sexual humiliation, exploitation of phobias, the use of dogs to threaten or intimidate, and stress positions. The Washington Post called APA’s 2007 resolution a “rebuke” of the Bush administration’s interrogation policy. The 2007 resolution also stated that both behavior and conditions of confinement can constitute torture: BE IT RESOLVED that the American Psychological Association,in recognizing that torture and other cruel, inhuman or degrading treatment and punishment can result not only from the behavior of individuals, but also from the conditions of confinement, expresses grave concern over settings in which detainees are deprived of adequate protection of their human rights, affirms the prerogative of psychologists to refuse to work in such settings, and will explore ways to support psychologists who refuse to work in such settings or who refuse to obey orders that constitute torture; The 2007 resolution reinforced a point made in earlier APA texts, that psychologists have an ethical obligation to report occurrences of torture of which they become aware. To reiterate: Torture is always immoral, unethical, and prohibited. Second, competent and ethical interrogations, conducted for the purpose of preventing acts of violence, are based upon an understanding of an individual’s psychology. Conducting a competent and ethical interrogation depends upon an understanding of an individual’s personal motivations and beliefs. The word “interrogation” derives from the Latin word “rogo,” which means “to ask.” Local, state, and federal law enforcement conduct hundreds of interrogations each day throughout the country. A skilled interrogator maximizes the likelihood that, when asked, an individual will produce accurate and reliable information. Providing accurate and reliable information depends upon two things: an individual’s willingness to provide the information, and an individual’s ability to provide the information. Forming a relationship and building rapport have proven to be effective means of creating the conditions under which the individual is both willing and able to provide the desired information. From what we can determine, torture and abuse have precisely the opposite effect. The goal of an individual being tortured is to stop the torture. The mental state of an individual being tortured is extreme distress, which is more likely to interfere with rather than to enhance memory. Thus, torture undermines the very foundation of an ethical and competent interrogation. This point—that torture has no role in a competent and ethical interrogation—has been emphasized repeatedly by veteran army interrogators.

Focusing on survival as the utmost impact subordinates all other values – it makes life meaningless  
Callahan 73(Daniel Callahan, professor of philosophy at Harvard, 1973 Co-founder and former director of the Hastings Institute, “The Tyranny of Survival” p 91-93)  
  
The value of survival could not be so readily abused were it not for its evocative power. But abused it has been. In the name of survival, all manner of social and political evils have been committed against the rights of individuals, including the right to life. The purported threat of Communist domination has for over two decades fueled the drive of militarists for ever-larger defense budgets, no matter what the cost to other social needs.During World War II, native Japanese-Americans were herded, without due process of law,to detention camps. This policy was later upheld by the Supreme Court in Korematsu v. United States (1944) in the general context that a threat to national security can justify acts otherwise blatantly unjustifiable. The survival of the Aryan race was one of the official legitimations of Nazism. Under the banner of survival, the government of South Africa imposes a ruthless apartheid, heedless of the most elementary human rights. The Vietnamese war has seen one of the greatest of the many absurdities tolerated in the name of survival: the destruction of villages in order to save them. But it is not only in a political setting that survival has been evoked as a final and unarguable value. The main rationale B. F. Skinner offers in Beyond Freedom and Dignity for the controlled and conditioned society is the need for survival. For Jacques Monod, in Chance and Necessity,survival requires that we overthrow almost every known religious, ethical and political system. In genetics, the survival of the gene pool has been put forward as sufficient grounds for a forceful prohibition of bearers of offensive genetic traits from marrying and bearing children. Some have even suggested that we do the cause of survival no good by our misguided medical efforts to find means by which those suffering from such common genetically based diseases as diabetes can live a normal life, and thus procreate even more diabetics. In the field of population and environment, one can do no better than to cite Paul Ehrlich, whose works have shown a high dedication to survival, and in its holy name a willingness to contemplate governmentally enforced abortions and a denial of food to surviving populations of nations which have not enacted population-control policies. For all these reasons it is possible to counterpoise over against the need for survival a "tyranny of survival." There seems to be no imaginable evil which some group is not willing to inflict on another for sake of survival, no rights, liberties or dignities which it is not ready to suppress. It is easy, of course, to recognize the danger when survival is falsely and manipulatively invoked. Dictators never talk about their aggressions, but only about the need to defend the fatherland to save it from destruction at the hands of its enemies. But my point goes deeper than that. It is directed even at a legitimate concern for survival, when that concern is allowed to reach an intensity which would ignore, suppress or destroy other fundamental human rights and values. The potential tyranny survival as value is that it is capable, if not treated sanely, of wiping out all other values. Survival can become an obsession and a disease, provoking a destructive singlemindedness that will stop at nothing. We come here to the fundamental moral dilemma. If, both biologically and psychologically, the need for survival is basic to man, and if survival is the precondition for any and all human achievements, and if no other rights make much sense without the premise of a right to life—then how will it be possible to honor and act upon the need for survival without, in the process, destroying everything in human beings which makes them worthy of survival. To put it more strongly, if the price of survival is human degradation, then there is no moral reason why an effort should be made to ensure that survival. It would be the Pyrrhic victory to end all Pyrrhic victories. Yet it would be the defeat of all defeats if, because human beings could not properly manage their need to survive, they succeeded in not doing so.

Human rights are the foremost moral imperative because they are the basis of all human action and agency  
Alan Gewirth, Phil@UChicago, Human Rights, **‘**82  
  
The primary thesis of the following essays is that human rights are of supreme importance, and are central to all other moral considerations, because they are rights of every human being to the necessary conditions of human action, i.e., those conditions that must be fulfilled if human action is to be possible either at all or with general chances of success in achieving the purposes for which humans act. Because they are such rights, they must be respected by every human being, in the primary justification of governance is that they serve to secure these rights. Thus the Subjects as well as the respondents of human rights are all human beings; the Objects of the rights are the aforesaid necessary conditions of human action and of successful action in general; and the justifying basis of the rights is the moral principle which establishes that all humans are equally entitled to have these necessary conditions, to fulfill the general needs of human agency.

Each invasion of freedom and rights must be immediately rejected  
Sylvester Petro, Professor of Law at Wake Forest University, Toledo Law Review, 1974, p. lexis  
  
It is seldom that liberty of any kind is lost all at once. Thus it is unacceptable to say that the invasion of one aspect of freedom is of no import because there have been invasions of so many other aspects. That road leads to chaos, tyranny, despotism and the end of all human aspiration. Ask Solzhensyn. Ask Milovan Dijilas. In sum, if one believes in freedom as a supreme value and the proper ordering any society aiming to maximize spiritual and material welfare, then every invasion of freedom must be empathically identified and resisted with an undying spirit.

The ‘Ticking Timebomb’ Scenario is unethical and flawed

APT 07(Association for the Prevention of Torture, 10/17/2007, “Diffusing the Ticking Timebomb Scenario”)  
  
In June 2007, as part of a series of activities to mark its 30th anniversary, the APT convened a meeting of experts to discuss responses to the ticking bomb scenario. In popular films and television series, on talk shows and news, in academic journals and political debates, the possible use of torture to prevent a terrorist attack in a hypothetical 'ticking bomb scenario' is a hot topic. The dramatic nature of the scenario, and the artificially simple moral answers it seems to offer, have helped it make a significant impression on public audiences. Yet this scenario ultimately seeks to destroy the hard-won absolute prohibition of torture under international and national laws. In presenting certain acts of torture as justifiable, even desirable, in distorting reality and manipulating emotions and ethical reasoning, in leading well-intentioned societies down a slippery slope to legalised and systematic torture, the ticking bomb scenario represents a grave threat to global anti-torture effort. Based on discussions at and following the June 2007 meeting, the APT has prepared Defusing the Ticking Bomb Scenario: Why we must say No to torture, always. This brochure provides the general public, human rights advocates, academics and governments with essential arguments against any proposed 'ticking bomb' exception to the prohibition of torture. It exposes the misleading and flawed hidden assumptions of the scenario, and emphasises the toxic effect of torture, like slavery and genocide, on societies that tolerate it. It recalls the fundamental and absolute nature of the prohibition under international law, and describes how the scenario manipulates moral and ethical judgment by obscuring the true moral cost of tolerating any act of torture.

Promoting global ethics solves global problems  
Tanter 08 (Richard, project director for The Nautilus Global Collaboration Group)  
  
Global problem-solving and ethics intersect in a number of ways. Obviously, the manner in which issues such as climate change, resource depletion, violent death, savage inequalities in life chances, and threats to biodiversity are approached and conceived, let alone resolved, embody multiple and profound ethical issues. At the most basic level, the perception of the existence of a problem is derived from a sense of incongruence between a given situation and the values the viewer deems relevant to that situation. Accordingly the structure of values that leads to the deeming of problems as “global problems” needs investigation. But equally, problems are not “solved” in any abstract or disembodied neutral or “value-free” sense. They are resolved, or there is work to resolve them, in directions or according to criteria and goals derived from values sets. Accordingly, the values attached to or underlying, explicitly or implicitly, global problem-solving actions and conceptions needs investigation.

Ethics independently promote Human Rights, in addition to other global issues  
Tanter 08 (Richard, project director for The Nautilus Global Collaboration Group)  
  
The first deals with the ethical practice of global social relations, or as one of the most important projects in this areas frames the goal, that of ethical globalisation. This includes work by the Ethical Globalisation Initiative and others working on the ethical aspects of global rules of engagement for state, market, and society, and includes institutional initiatives such as the Ethical Globalisation Initiative, the United Nations Global Compact, and the Universal Declaration of Human Responsibilities, as well as great range of work in law, human rights advocacy, and the application of ethical principles to the management of global problems such as climate change, labour and migration in transnational production systems, HIV/AIDS and other pandemics, and the impacts of divisions of humanity by class, gender and ethnicity.

A2: Util

The best Ethical framework is one that equally considers the human rights of allMarkkula Center for Applied Ethics 2010Other philosophers and ethicists suggest that the ethical action is the one that best protects and respects the moral rights of those affected. This approach starts from the belief that humans have a dignity based on their human nature per se or on their ability to choose freely what they do with their lives. On the basis of such dignity, they have a right to be treated as ends and not merely as means to other ends. The list of moral rights -including the rights to make one's own choices about what kind of life to lead, to be told the truth, not to be injured, to a degree of privacy, and so on-is widely debated; some now argue that non-humans have rights, too. Also, it is often said that rights imply duties-in particular, the duty to respect others' rights.

Consequentialism is the framework of the unethical  
Vuletic 02 (Mark, author of many books on ethics, B.A and M.A in Philosophy)

Our hypothetical deontologist claims that consequentialism absolves its adherents of all personal responsibility for three presumed reasons: (a) consequentialism removes all personal decision, as the consequentialist simply turns himself into a "slave of utility maximization"; (b)consequentialism allows an agent to rationalize away atrocities such as the injury of one person for the benefit of the many; (c) consequentialism allows one to shrug off disastrous states of affairs that are brought about when one's consequentialist moral calculus advises a course of action that turns out to be wrong.

Utilitarianism destroys regard for the individualNorman 10 (Richard, Richard Norman is Emeritus Professor of Moral Philosophy.  His work has been mainly in the areas of ethics and political philosophy.  His book The Moral Philosophers, which has been widely used in courses on moral philosophy, is a critical introduction to the history of ethics, leading to a defence of a form of ethical naturalism.  His conception of values as grounded in shared human experience underpins his subsequent work in ethics and political philosophy.  His book Free and Equal defends a radically egalitarian political philosophy which aims to reconcile the supposedly conflicting values of freedom and equality.  His book Ethics, Killing and War argues for pacificism, a position which is distinct from absolute pacifism but recognises how difficult it is to provide any moral justification for war.  His most recent book is On Humanism (Routledge, 2004), in which his commitment to shared human values is located within a popular exposition and defence of a non-religious outlook)  
  
Other critics of utilitarianism have argued that by focusing exclusively on outcomes it gives insufficient importance to the significance of moral agency. A more ‘agent-centred’ approach can be found, for instance, in the work of Bernard Williams . He suggests that a person's moral identity is constituted by his or her ‘ground projects’ and ‘commitments’ and that utilitarianism, in so far as it would require one to abandon these whenever the actions of others so order the consequences as to make it necessary, can give no adequate account of concepts such as ‘moral integrity’. Another approach which can be called ‘agent-centred’ is the work of Philippa Foot and others which refocuses attention on the virtues.Whereas utilitarianism assesses actions by their production of good consequences, virtue ethics aims rather to identify those ways of acting which go to make up a good human life. Foot, indeed, has argued thatthe idea of ‘the best state of affairs’, which is supposed to serve as the utilitarian criterion of right action, does not as it stands have any clear sense.

Humans are hardwired to be moral- this means that ethics are the most important impact  
**Warneken**, F. & Tomasello, M. (2006). Altruistic helping in human infants and young chimpanzees. Science, 311(5765), 1301-1303.Can't have morality without god? Think again.Recent research [1] by psychologist Felix Warnekenindicates that altruistic traits may be hardwired into our brains. Performing a set of simple tasks in front of toddlers such as hanging clothes on a clothesline, Warneken sometimes "struggled" with the tasks and deliberately messing them up at othertimes. The response of the toddlers was fascinating. Over and over, whether Warneken dropped clothespins or knocked over his books, each of 24 toddlers offered help within seconds — but only if he appeared to need it.Warneken never asked for the help and didn't even say "thank you," so as not to taint the research by training youngsters to expect praise if they helped. After all, altruism means helping with no expectation of anything in return. And — this is key — the toddlers didn't bother to offer help when he deliberately pulled a book off the stack Video shows how one overall-clad baby glanced between Warneken's face and the dropped clothespin before quickly crawling over, grabbing the object, pushing up to his feet and eagerly handing back the pin. or threw a pin to the floor, Warneken, of Germany's Max Planck Institute of Evolutionary Anthropology, reports Thursday in the journal Science. Chimps have also displayed this behavior when they are able to clearly grasp a person's goals, but it is not evident that they help for the same reasons as babies do. While the Yahoo article is short and, as usual, not terribly informative, thisis certainly interesting research that indicates at some basic level humans are intrinsically moral creatures.

Util undermines individual human rights  
Pulhar 90(Evenlyn, Utilitarian killing, replacement, and rights, published in the Journal of Agricultural and Environmental Ethics Volume 3, Number 2 / September, 1990)The ethical theory underlying much of our treatment of animals in agriculture and research is the moral agency view. It is assumed that only moral agents, or persons, are worthy of maximal moral significance, and that farm and laboratory animals are not moral agents. However, this view also excludes human non-persons from the moral community. Utilitarianism, which bids us maximize the amount of good (utility) in the world, is an alternative ethical theory. Although it has many merits, including impartiality and the extension of moral concern to all sentient beings, it also appears to have many morally unacceptable implications. In particular, it appears to sanction the killing of innocents when utility would be maximized, including cases in which we would deliberately kill and replace a being, as we typically do to animals on farms and in laboratories.I consider a number of ingenious recent attempts by utilitarians to defeat the killing and replaceability arguments, including the attempt to make a place for genuine moral rights within a utilitarian framework. I conclude that utilitarians cannot escape the killing and replaceability objections. Those who reject the restrictive moral agency view and find they cannot accept utilitarianism's unsavory implications must look to a different ethical theory to guide their treatment of humans and non-humans.

Individual Stories:

****Innocents are tortured, and have no legal recourse: Raymond Azar****

Gebauer 09 (“The Forgotten Guantanamo” Written for Speigel International, a German news source: http://www.spiegel.de/international/world/0,1518,650242,00.html)

**US President Barack Obama has spoken out against CIA prisoner abuse and wants to close Guantanamo. But he tolerates the existence of** Bagram **military prison in Afghanistan, where more than 600 people are being held without charge. The facility** makes Guantanamo look like a "nice hotel,**" in the words of one military prosecutor.** The day that Raymond Azar was taken by force to Bagram was a quiet day in Kabul. There were no attacks and the sun was shining. Azar, who is originally from Lebanon, is the manager of a construction company. He was on his way to Camp Eggers, the American military base near the presidential palace, when 10 armed FBI agents suddenly surrounded him. The men, all wearing bulletproof vests, put him in handcuffs, tied him up and pushed him into an SUV. Two hours later, they unloaded Azar at the Bagram military prison 50 kilometers (31 miles) northeast of Kabul. As Azar later testified, he was forced to sit for seven hours, his hands and feet tied to a chair. He spent the night in a cold metal container, and he received no food for 30 hours. He claimed that US military officers showed him photos of his wife and four children, telling him that unless he cooperated he would never see his family again. He also said that he was photographed while naked and then given a jumpsuit to wear. 'A Need for This Sort of Place' On that day, April 7, 2009, President Barack Obama had been in office for exactly 77 days. Shortly after his inauguration, Obama had ordered the closing of the Guantanamo Bay detention center and ordered the CIA to give up its secret "black site" prisons. He wanted to shed the dark legacy of the Bush years -- there should be no torture any more, no more secret kidnapping operations of terrorism suspects, no renditions. At least, that was what Obama had promised. He did not mention Bagram in his speeches. Azar was in Kabul on business. His company had signed contracts with the Pentagon worth $50 million (€34 million) for reconstruction work in Afghanistan. On April 8, Azar was placed onto a Gulfstream and flown to the US state of Virginia to face charges. He was accused of having bribed his US Army contact to secure military contracts for his company, and he was later found guilty of bribery. It was a classic case of corruption, which is not the sort of crime for which a suspect is normally sent to a military prison. No one can explain to Azar why he was taken to Bagram, where the US military treated him like a terrorism suspect and, in doing so, inadvertently provided him with an insight into a world it normally prefers to keep under wraps. Bagram is "the forgotten second Guantanamo," says American military law expert Eugene Fidell, a professor at Yale Law School. "But apparently there is a continuing need for this sort of place even under the Obama administration." From the beginning, "Bagram was worse than Guantanamo," says New York-based attorney Tina Foster, who has argued several cases on behalf of detainee rights in US courts. "Bagram has always been a torture chamber." And what does Obama say? Nothing. He never so much as mentions Bagram in any of his speeches. When discussing America's mistreatment of detainees, he only refers to Guantanamo. Classified Location The Bagram detention facility, by now the largest American military prison outside the United States, is not marked on any maps. In fact, its precise location, somewhere on the periphery of the giant air base northeast of the Afghan capital, is classified. It comprises two sand-colored buildings that resemble airplane hangars, surrounded by tall concrete walls and green camouflage tarps. The facility was set up in 2002 as a temporary prison on the grounds of a former Soviet air base. Today, the two buildings contain large cages, each with the capacity to hold 25 to 30 prisoners. Up to 1,000 detainees can be held at Bagram at any one time. The detainees sleep on mats, and there is one toilet behind a white curtain for each cage. A $60 million extension is expected to be completed by the end of the year. Unlike Guantanamo, Bagram is located in the middle of the Afghan war zone. But not all the inmates were captured in combat areas. Many terrorism suspects are from other countries and were transported to Bagram for interrogation after being captured.

The death of Mr. Dilawar highlights the true nature of Bagram

Golden, 05 (Tim, article appeared in the NYTimes: http://www.nytimes.com/2005/05/20/international/asia/20abuse.html?\_r=1)

Even as the young Afghan man was dying before them, his American jailers continued to torment him. The prisoner, a slight, 22-year-old taxi driver known only as Dilawar, was hauled from his cell at the detention center in Bagram, Afghanistan, at around 2 a.m. to answer questions about a rocket attack on an American base. When he arrived in the interrogation room, an interpreter who was present said, his legs were bouncing uncontrollably in the plastic chair and his hands were numb. He had been chained by the wrists to the top of his cell for much of the previous four days. Dilawar was an Afghan farmer and taxi driver who died while in custody of American troops. A sketch by Thomas V. Curtis, a Reserve M.P. sergeant, showing how Dilawar was chained to the ceiling of his cell. Mr. Dilawar asked for a drink of water, and one of the two interrogators, Specialist Joshua R. Claus, 21, picked up a large plastic bottle. But first he punched a hole in the bottom, the interpreter said, so as the prisoner fumbled weakly with the cap, the water poured out over his orange prison scrubs. The soldier then grabbed the bottle back and began squirting the water forcefully into Mr. Dilawar's face. "Come on, drink!" the interpreter said Specialist Claus had shouted, as the prisoner gagged on the spray. "Drink!" At the interrogators' behest, a guard tried to force the young man to his knees. But his legs, which had been pummeled by guards for several days, could no longer bend. An interrogator told Mr. Dilawar that he could see a doctor after they finished with him. When he was finally sent back to his cell, though, the guards were instructed only to chain the prisoner back to the ceiling. "Leave him up," one of the guards quoted Specialist Claus as saying. Several hours passed before an emergency room doctor finally saw Mr. Dilawar. By then he was dead, his body beginning to stiffen. It would be many months before Army investigators learned a final horrific detail: Most of the interrogators had believed Mr. Dilawar was an innocent man who simply drove his taxi past the American base at the wrong time. The story of Mr. Dilawar's brutal death at the Bagram Collection Point - and that of another detainee, Habibullah, who died there six days earlier in December 2002 - emerge from a nearly 2,000-page confidential file of the Army's criminal investigation into the case, a copy of which was obtained by The New York Times. Like a narrative counterpart to the digital images from Abu Ghraib, the Bagram file depicts young, poorly trained soldiers in repeated incidents of abuse. The harsh treatment, which has resulted in criminal charges against seven soldiers, went well beyond the two deaths. In some instances, testimony shows, it was directed or carried out by interrogators to extract information. In others, it was punishment meted out by military police guards. Sometimes, the torment seems to have been driven by little more than boredom or cruelty, or both.

Omar Khadr was taken to Bagram and tortured when he was 15 years old.

Worthington 10 (Andy, “Torturing Omar Khadr: A Child Detained In Bagram And Guantanamo”, for The Public Record: http://pubrecord.org/torture/7628/torturing-khadr-child-detained-bagram)

Over the years, and in an affidavit submitted in February 2008 (PDF), Khadr has described his mistreatment in detail, explaining how he was unconscious for a week after his capture, when he was severely wounded, and how, in Bagram, where he was taken after just two weeks in a hospital, his interrogations began immediately, at the hands of an interrogator who manipulated his injuries (the exact details were redacted from his affidavit). Crucially, he also explained how, as soon as he regained consciousness, “the first soldier told me that I had killed an American with a grenade,” and how, during his first interrogation at Bagram, “I figured out right away that I would simply tell them whatever I thought they wanted to hear in order to keep them from causing me [redacted].” There is much more in the affidavit — casual cruelty, whereby guards made Khadr do hard manual labor when his wounds were not healed, and, significantly, threats “to have me raped, or sent to other countries like Egypt, Syria, Jordan or Israel to be raped.” He also noted, “I would always hear people screaming, both day and night,” and explained that other prisoners were scared of his interrogator. “Most people would not talk about what had been done to them,” he declared. “This made me afraid.” Khadr also described what happened to him in Guantánamo, where, as I explained last week, he “arrived around the time that a regime of humiliation, isolation and abuse, including extreme temperature manipulation, forced nudity and sexual humiliation, had just been introduced, by reverse-engineering torture techniques, used in a military program designed to train US personnel to resist interrogation if captured, in an attempt to increase the meager flow of ‘actionable intelligence’ from the prison.” At various points in 2003, while the use of these techniques was still widespread, Khadr stated that he was short-shackled in painful positions and left for up to ten hours in a freezing cold cell, threatened with rape and with being transferred to another country where he could be raped, and, on one particular occasion, when he had been left short-shackled in a painful position until he urinated on himself: Military police poured pine oil on the floor and on me, and then, with me lying on my stomach and my hands and feet cuffed together behind me, the military police dragged me back and forth through the mixture of urine and pine oil on the floor. Later, I was put back in my cell, without being allowed a shower or a change of clothes. I was not given a change of clothes for two days. They did this to me again a few weeks later. Crucially, when describing the interrogations that punctuated these experiences at Guantánamo, Khadr explained, “I did not want to expose myself to any more harm, so I always just told interrogators what I thought they wanted to hear. Having been asked the same questions so many times, I knew what answers made interrogators happy and would always tailor my answers based on what I thought would keep me from being harmed.”

Until two weeks ago, these claims — though well-known to those who have followed Khadr’s case — had, for the most part, not been aired in a courtroom.

**The Statement of Ahmed al-Darbi**

**Worthington 10** (Andy, “Torture in Bagram and Guantánamo: The Declaration of Ahmed al-Darbi”, http://www.andyworthington.co.uk/2009/09/29/torture-in-bagram-and-guantanamo-the-declaration-of-ahmed-al-darbi/)

The following statement, made by Guantánamo prisoner Ahmed al-Darbi on July 1, 2009, was originally posted by the U.C. Davis Center for the Study of Human Rights in the Americas, a University of California research project, coordinated by Almerindo Ojeda, which is well worth visiting. I’m posting it here to accompany my article, “Torture And Futility: Is This The End Of The Military Commissions At Guantánamo?”

1. My name is Ahmed Mohammed Ahmed Al Darbi. 2. I am a Saudi national who has been imprisoned at the U.S. Naval Station at Guantánamo Bay, Cuba (“Guantánamo”) for nearly six years. The U.S. military has assigned me Internment Serial Number (“ISN”) 768 at Guantánamo. 3. In June 2002, I traveled by air from Dubai, United Arab Emirates to Baku, Azerbaijan. While I was at customs in the Baku airport, waiting to be processed for entry, I was taken into custody by local Azerbaijani authorities. I did not know why Azerbaijani authorities apprehended me and I had no reason to know that they would. I was held in Azerbaijani custody for about two months. 4. In August 2002, the Azerbaijani authorities turned me over to U.S. agents. These agents [REDACTED]. They then blindfolded me, wrapped their arms around my neck in a way that strangled me, and cursed at me. [REDACTED], and somebody else kept saying, “fuck you” in my ear. I was terrified and feared for my life, because I did not know who had seized me, which government’s custody I was in, or where they were taking me. They did not tell me where we were going. 5. I was eventually taken to a place that I now know was Bagram Air Force Base in Afghanistan (“Bagram”). I was imprisoned at Bagram for about eight months. At Bagram, my detainee number was 264. 6. In late March 2003, I was transferred to Guantánamo. **BAGRAM**

**Treatment and interrogations during the first two weeks at Bagram** 7. During about the first two weeks at Bagram, I was kept in complete isolation, and I did not even know I was in Afghanistan. 8. U.S. agents began interrogating me on my second day at Bagram. These interrogations took place in a room different from the isolation cell where I was held the rest of the time. 9. While I was questioned, I was kept for many hours in painful positions. For example, I would be forced to kneel with my hands cuffed above my head, often through the night, so that I was not allowed to sleep. This position caused very sharp pain in my knee-caps. If my hands began to fall or I tried to stretch to relieve the pain in my back while I knelt, the interrogators kicked me in the back. 10. Sometimes I was also forced to lean against a wall with my forehead pressing against the wall and my hands shackled behind my back, but with my feet away from the wall. In this position, all my weight rested on my forehead. I had to hold this position for hours. This hurt my head and neck. It was impossible to sleep in this position. 11. I was often hooded during these interrogations. The hood they used had a sort of rope or drawstring that they would pull tight around my neck. The darkness, combined with little sleep, would leave me disoriented. 12. During these interrogations, they would ask me repeatedly about Osama Bin Laden and his whereabouts. Of course, I knew nothing about this. 13. When I was not being interrogated in an interrogation room, I was put in an isolation cell where the temperature was high and the light was kept brightly lit most of the time. Often they also would blast loud music into my cell. 14. During these first two weeks, I hardly slept at all. I was purposely kept awake much of the time, and it seemed that every time I started to fall asleep, they would hit me to keep me awake. Also, during that period, I was not allowed to pray.

Big Impacts:

Decline in U.S. hegemony sparks nuclear wars in every key region---no viable replacement

Kagan 7 – Robert Kagan, senior associate at the Carnegie Endowment for International Peace and senior transatlantic fellow at the German Marshall Fund, August-September 2007, “End of Dreams, Return of History,” Hoover Policy Review, online: http://www.hoover.org/publications/policyreview/8552512.html

Finally, there is the United States itself. As a matter of national policy stretching back across numerous administrations, Democratic and Republican, liberal and conservative, Americans have insisted on preserving regional predominance in East Asia; the Middle East; the Western Hemisphere; until recently, Europe; and now, increasingly, Central Asia. This was its goal after the Second World War, and since the end of the Cold War, beginning with the first Bush administration and continuing through the Clinton years, the United States did not retract but expanded its influence eastward across Europe and into the Middle East, Central Asia, and the Caucasus. Even as it maintains its position as the predominant global power, it is also engaged in hegemonic competitions in these regions with China in East and Central Asia, with Iran in the Middle East and Central Asia, and with Russia in Eastern Europe, Central Asia, and the Caucasus. The United States, too, is more of a traditional than a postmodern power, and though Americans are loath to acknowledge it, they generally prefer their global place as “No. 1” and are equally loath to relinquish it. Once having entered a region, whether for practical or idealistic reasons, they are remarkably slow to withdraw from it until they believe they have substantially transformed it in their own image. They profess indifference to the world and claim they just want to be left alone even as they seek daily to shape the behavior of billions of people around the globe.

The jostling for status and influence among these ambitious nations and would-be nations is a second defining feature of the new post-Cold War international system. Nationalism in all its forms is back, if it ever went away, and so is international competition for power, influence, honor, and status. American predominance prevents these rivalries from intensifying — its regional as well as its global predominance. Were the United States to diminish its influence in the regions where it is currently the strongest power, the other nations would settle disputes as great and lesser powers have done in the past: sometimes through diplomacy and accommodation but often through confrontation and wars of varying scope, intensity, and destructiveness. One novel aspect of such a multipolar world is that most of these powers would possess nuclear weapons. That could make wars between them less likely, or it could simply make them more catastrophic.

It is easy but also dangerous to underestimate the role the United States plays in providing a measure of stability in the world even as it also disrupts stability. For instance, the United States is the dominant naval power everywhere, such that other nations cannot compete with it even in their home waters. They either happily or grudgingly allow the United States Navy to be the guarantor of international waterways and trade routes, of international access to markets and raw materials such as oil. Even when the United States engages in a war, it is able to play its role as guardian of the waterways. In a more genuinely multipolar world, however, it would not. Nations would compete for naval dominance at least in their own regions and possibly beyond. Conflict between nations would involve struggles on the oceans as well as on land. Armed embargos, of the kind used in World War i and other major conflicts, would disrupt trade flows in a way that is now impossible.

Such order as exists in the world rests not merely on the goodwill of peoples but on a foundation provided by American power. Even the European Union, that great geopolitical miracle, owes its founding to American power, for without it the European nations after World War II would never have felt secure enough to reintegrate Germany. Most Europeans recoil at the thought, but even today Europe ’s stability depends on the guarantee, however distant and one hopes unnecessary, that the United States could step in to check any dangerous development on the continent. In a genuinely multipolar world, that would not be possible without renewing the danger of world war.

People who believe greater equality among nations would be preferable to the present American predominance often succumb to a basic logical fallacy. They believe the order the world enjoys today exists independently of American power. They imagine that in a world where American power was diminished, the aspects of international order that they like would remain in place. But that ’s not the way it works. International order does not rest on ideas and institutions. It is shaped by configurations of power. The international order we know today reflects the distribution of power in the world since World War ii, and especially since the end of the Cold War. A different configuration of power, a multipolar world in which the poles were Russia, China, the United States, India, and Europe, would produce its own kind of order, with different rules and norms reflecting the interests of the powerful states that would have a hand in shaping it. Would that international order be an improvement? Perhaps for Beijing and Moscow it would. But it is doubtful that it would suit the tastes of enlightenment liberals in the United States and Europe.

The current order, of course, is not only far from perfect but also offers no guarantee against major conflict among the world ’s great powers. Even under the umbrella of unipolarity, regional conflicts involving the large powers may erupt. War could erupt between China and Taiwan and draw in both the United States and Japan. War could erupt between Russia and Georgia, forcing the United States and its European allies to decide whether to intervene or suffer the consequences of a Russian victory. Conflict between India and Pakistan remains possible, as does conflict between Iran and Israel or other Middle Eastern states. These, too, could draw in other great powers, including the United States.

Such conflicts may be unavoidable no matter what policies the United States pursues. But they are more likely to erupt if the United States weakens or withdraws from its positions of regional dominance**.** This isespeciallytrue inEast Asia, where most nations agree that a reliable American power has a stabilizing and pacific effect on the region. That is certainly the view of most of China ’s neighbors. But even China, which seeks gradually to supplant the United States as the dominant power in the region, faces the dilemma that an American withdrawal could unleash an ambitious, independent, nationalist Japan.

In Europe, too, the departure of the United States from the scene — even if it remained the world’s most powerful nation — could be destabilizing. It could tempt Russia to an even more overbearing and potentially forceful approach to unruly nations on its periphery. Although some realist theorists seem to imagine that the disappearance of the Soviet Union put an end to the possibility of confrontation between Russia and the West, and therefore to the need for a permanent American role in Europe, history suggests that conflicts in Europe involving Russia are possible even without Soviet communism. If the United States withdrew from Europe — if it adopted what some call a strategy of “offshore balancing” — this could in time increase the likelihood of conflict involving Russia and its near neighbors, which could in turn draw the United States back in under unfavorable circumstances.

It is also optimistic to imagine that a retrenchment of the American position in the Middle East and the assumption of a more passive, “offshore” role would lead to greater stability there. The vital interest the United States has in access to oil and the role it plays in keeping access open to other nations in Europe and Asia make it unlikely that American leaders could or would stand back and hope for the best while the powers in the region battle it out. Nor would a more “even-handed” policy toward Israel, which some see as the magic key to unlocking peace, stability, and comity in the Middle East, obviate the need to come to Israel ’s aid if its security became threatened. That commitment, paired with the American commitment to protect strategic oil supplies for most of the world, practically ensures a heavy American military presence in the region, both on the seas and on the ground.

The subtraction of American power from any region would not end conflict but would simply change the equation. In the Middle East, competition for influence among powers both inside and outside the region has raged for at least two centuries. The rise of Islamic fundamentalism doesn ’t change this. It only adds a new and more threatening dimension to the competition, which neither a sudden end to the conflict between Israel and the Palestinians nor an immediate American withdrawal from Iraq would change. The alternative to American predominance in the region is not balance and peace. It is further competition. The region and the states within it remain relatively weak. A diminution of American influence would not be followed by a diminution of other external influences. One could expect deeper involvement by both China and Russia, if only to secure their interests. 18 And one could also expect the more powerful states of the region, particularly Iran, to expand and fill the vacuum. It is doubtful that any American administration would voluntarily take actions that could shift the balance of power in the Middle East further toward Russia, China, or Iran. The world hasn ’t changed that much. An American withdrawal from Iraq will not return things to “normal” or to a new kind of stability in the region. It will produce a new instability, one likely to draw the United States back in again.

The alternative to American regional predominance in the Middle East and elsewhere is not a new regional stability. In an era of burgeoning nationalism, the future is likely to be one of intensified competition among nations and nationalist movements. Difficult as it may be to extend American predominance into the future, **no one should imagine that a reduction of American power or a retraction of American influence and global involvement will provide an easier path.**

Violations of human rights threaten survival.

Rhonda Copelon, Professor of Law and Director of the International Women's Human Rights Law Clinic at the City University of New York School of Law, New York City Law Review, 1998/99, 3 N.Y. City L. Rev. 59

The indivisible human rights framework survived the Cold War despite U.S. machinations to truncate it in the international arena. The framework is there to shatter the myth of the superiority of the U.S. version of rights, to rebuild popular expectations, and to help develop a culture and jurisprudence of indivisible human rights. Indeed, in the face of systemic inequality and crushing poverty, violence by official and private actors, globalization of the market economy, and military and environmental depredation, the human rights framework is gaining new force and new dimensions. It is being broadened today by the movements of people in different parts of the world, particularly in the Southern Hemisphere and significantly of women, who understand the protection of human rights as a matter of individual and collective human survival and betterment. Also emerging is a notion of third-generation rights, encompassing collective rights that cannot be solved on a state-by-state basis and that call for new mechanisms of accountability, particularly affecting Northern countries. The emerging rights include human-centered sustainable development, environmental protection, peace, and security. Given the poverty and inequality in the United States as well as our role in the world, it is imperative that we bring the human rights framework to bear on both domestic and foreign policy.