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# 1AC:

## Obs. 1 – Status Quo

**FISA Reform has been passed, but it is merely a red herring that will not change the FISA court process or create necessary transparency.**

Government's Secret Surveillance Court May Be About to Get a Little Less Secret The USA Freedom Act may foist some transparency on the notoriously opaque FISA court. By Max J. **Rosenthal** | Fri Jun. 12, **2015** 6:05 AM EDT http://www.motherjones.com/politics/2015/06/usa-freedom-act-fisa-court-transparency

When the USA Freedom Act [was passed last week](https://www.whitehouse.gov/the-press-office/2015/06/02/statement-president-usa-freedom-act%22%20%5Ct%20%22_blank), it was hailed as the first major limit on NSA surveillance powers in decades. Less talked about was the law's mandate to open a secret intelligence court to unprecedented scrutiny. The Foreign Intelligence Surveillance Court, often known as the FISA court after [the 1978 law that created it](https://it.ojp.gov/default.aspx?area=privacy&page=1286" \t "_blank), rules on government requests for surveillance of foreigners. Its 11 federal judges, appointed by the chief justice of the Supreme Court, consider the requests one at a time on a rotating basis. In closed proceedings, they have approved [nearly every one of the surveillance orders](http://www.cnn.com/2014/01/17/politics/surveillance-court/%22%20%5Ct%20%22_blank) that have come before the court, and their rulings are classified. Privacy advocates say those secret deliberations have created a black box that keeps the public from seeing both why the government makes key surveillance decisions and how it justifies them. But the new law passed by Congress last week may shed some new light on these matters. "The larger step that the USA Freedom Act accomplishes is that it is bringing those things out to the public," says Mark Jaycox, a legislative analyst at the Electronic Frontier Foundation, a digital privacy advocacy group. The new law mandates that FISA court rulings that create "[novel and significant](https://www.pclob.gov/library/Medine-Testimony-20140204-House_Judiciary_Comm.pdf%22%20%5Ct%20%22_blank)" changes to surveillance law be declassified—and it is up to the judges to determine if the cases reach that threshold—though only after review by the attorney general and the director of national intelligence. While FISA court rulings have been leaked and occasionally declassified, the new law marks the first time Congress has attempted to make the court's decisions available to the public. The law also requires the court to create an advisory panel of privacy experts, known as an amicus panel. When a judge considers what she considers a "novel or significant" cases, she will call on that panel to discuss civil liberties concerns the surveillance requests brings up. Judges can also use the panel in other cases as they see fit. The USA Freedom doesn't lay out how the amicus panel will work in detail. But privacy advocates say its mere existence will be an important step. "We know we will see the order and potentially that an amicus [a privacy panel member] is going to be there arguing against it. Those things are huge to us," Jaycox says. But while the USA Freedom Act calls for important FISA court rulings will be made public, there's no guarantee they will be. For one, final say on declassification still rests with the executive branch rather than the judges themselves. And while the judges' input on the cases will still be important—if not final—says Liza Goitein, co-director of the Liberty and National Security Program at the Brennan Center for Justice, they have already shown a "sort of reflexive deference" to the government. While FISA court rulings have been leaked and occasionally declassified, the new law marks the first time Congress has attempted to make the court's decisions available to the public. In fact, advocates say, judges have always had the powers outlined in the new law—to bring in consultants or recommend declassifying their opinions. "This is something the FISA court could have done all along," says Amie Stepanovich, the US policy manager for privacy advocacy group Access. "They always could have chosen to be more transparent in their proceedings." Privacy advocates hope that having these pre-existing powers now written into law means that judges will actually use them, but even that isn't for certain. "I think the transparency provisions are going to be effective for the judges who are inclined to support them and are going to be ineffective for the judges who aren't," says Steve Vladeck, a professor at American University's Washington College of Law. There are other procedural moves the government could use to limit what information is made public. The court could simply issue summaries of decisions that don't include their key parts, or the executive branch could heavily redact them. "In theory, the executive branch could comply with this part of the statute by redacting 99 percent—everything but one sentence, essentially—of an opinion," Goitein says. She admits that specific tactic is unlikely—it would be an obvious and public skirting of the law's intent—but stresses that even though the law makes important progress in disclosure, there are still many loopholes that could cut down on how much the public will get to see. "I think the history strongly suggests that the intelligence establishment will take every single little bit of rope it has," she says. "And then some."

 **Two things are necessary to stop FISA Courts from having the ability to autonomously create more power for themselves, a public privacy advocate, and publication of court rulings and proceedings.**

NADIA **KAYYALI** AUGUST 15, **2014** https://www.eff.org/deeplinks/2014/08/what-you-need-know-about-fisa-court-and-how-it-needs-change What You Need to Know About the FISA Court—and How it Needs to Change

Should interpretation of the laws and Constitution of the United States take place in one-sided secretive courts, away from the public eye? For years, it has. But even Foreign Intelligence Surveillance Court (FISC) judges don’t agree on how exactly the FISC should work. Since the Snowden disclosures, hundreds of lawmakers have made it clear that they want to see more transparency in the court by supporting various NSA reforms. Most recently, 18 Senators co-sponsored the new USA FREEDOM Act, S. 2685, which offers a few important changes to the FISC. So who’s right? A look at the history and procedures of the FISC make it clear: real reform is needed now. How We Think Courts Work, and How that Measures Up to the FISA Court As a society, we imagine courts are places where adversarial proceedings take place. In television, literature, and movies, we see each side taking responsibility for gathering the evidence and witnesses that will be most helpful to their argument. They put forth their evidence and argue the law where applicable. And each side has the opportunity to know and take apart the other side’s evidence. Of course some court situations are not adversarial. The most commonly known situation is when a judge signs a warrant so law enforcement can conduct a search after hearing only from the cops. But when those warrants result in evidence that is used in court, there’s still a chance to challenge the validity of the warrant and the search—and if they were done incorrectly, that evidence can often be suppressed. The FISA Court is very different. Created by Section 103 of the Foreign Intelligence Surveillance Act of 1978, the purpose of the FISC is to “hear applications for and grant orders approving electronic surveillance anywhere within the United States.” The court makes its own rules and operates in secret. It decides matters like the now infamous Verizon order leaked by Edward Snowden, which allowed for the collection of call detail records for millions of innocent Verizon customers. It relies on a general “heightened duty of candor,” meaning that the government is supposed to go to extreme lengths to tell the court everything it ought to know to make the right decision. Now, if this was just a simple process of approving applications for surveillance, and if the evidence could later be challenged in court, this might make sense. But, as we’ve learned, this process is not so simple and can involve critical issues of constitutional law and interpretations of what Congress meant in FISA. The court must rely on one-sided information from the government and has to trust that that information is complete. And the data collected by the NSA and FBI under those applications often remains secret, even when it, or information derived from it, is used in criminal proceedings. Why the FISA Court Needs to Change eff.org/nsa­spying Donate to EFF Stayin Touch Email Address Postal Code (optional) SIGN UP NOW NSA Spying EFF is leading the fight against the NSA's illegal mass surveillance program. Learn more about what the program is, how it works, and what you can do. Follow EFF House deals major blow to TPP and Obama's secret antiuser trade agenda. Here's what happened today: https://eff.org/r.otm5 JUN 12 @ 5:55PM U.S. Department of Commerce's FAQ on proposed Wassenaar implementation gives answers, but raises more questions: Projects Bloggers' Rights Among the myriad reasons the FISC must change, three stand out. First, FISA has become a drastically more complicated law than when it was originally passed in 1978, and the role of the FISC has accordingly grown far beyond the bounds of what Congress envisioned. Second, because of those changes, the FISC has created a huge body of secret policy and legal precedent. Finally, the court’s reliance on the government to provide all the necessary information needed to fairly make decisions is not sufficient, something that is painfully obvious as one reads the FISC decisions themselves. It’s also something EFF has recently experienced in our NSA cases. The court’s mandate has expanded exponentially since 1978, especially during the 90s. More recently, Section 215 of the PATRIOT Act and Section 702 of the FISA Amendments Act—both of which were passed decades after the initial FISA—granted far broader spying authorities to the government than had existed before, and the government has claimed the right to conduct mass surveillance under these provisions. What Congress originally authorized when creating the FISC, with the Church Committee hearings freshly in mind, was an expedited system of approving individualized warrants for foreign surveillance of specified individuals—much like what regular magistrate judges do with warrants now, with safeguards built in for the national security context. That bears repeating: When FISA was passed, it authorized individualized warrants for surveillance. Now, the court is approving mass surveillance. This is key, because as “current and former officials familiar with the court’s classified decisions” told the New York Times in July of last year, the court is no longer simply approving applications. It is “regularly assessing broad constitutional questions and establishing important judicial precedents, with almost no public scrutiny," affecting millions of innocent people. As former FISC judge James Robertson stated to the Privacy and Civil Liberties Oversight Board, “What [the FISC] does is not adjudication, but approval. This works just fine when it deals with individual applications for warrants, but the 2008 (FISA) amendment has turned the FISA court into an administrative agency making rules for others to follow.” The result of this expansion of the FISC’s role is a body of secret law that, now that some has come to light, has shocked most Americans. The most obvious example of this is, of course, section 215 of the Patriot Act, where “the court’s interpretation of the word ['relevant,'] enabled the government . . . to collect the phone records of the majority of Americans, including phone numbers people dialed and where they were calling from, as part of a continuing investigation into international terrorism.” The “heightened duty of candor” is not enough. FISC decisions that have been made public are full of descriptions of the NSA not fulfilling its duties and being very slow to inform the court about it. Judge John Bates noted: “The court is troubled that the government’s revelations regarding the NSA’s acquisition of Internet transactions mark the third instance in less than three years in which the government has disclosed a substantial misrepresentation regarding the scope of a major collection program,” and noted “repeated inaccurate statements made in the government’s submission,” concluding that the requirements had been “so frequently and systematically violated that it can fairly be said that this critical element of the overall…regime has never functioned effectively.” Judges have consistently chastised the NSA for “inaccurate” statements, misleading or incomplete filings and for having “circumvented the spirit” of laws protecting Americans’ privacy. EFF had its own brush with this problem earlier this year, when we discovered that the government had not even informed the FISC of its duties to preserve evidence. In March, after an emergency hearing, a federal court in San Francisco ordered the government to preserve records of Section 215 call details collection. On that same day, the FISC issued its own strongly worded order in which it mandated the government to make a filing explaining exactly Coders' Rights Follow EFF Free Speech Weak Links Global Chokepoints HTTPS Everywhere Manila Principles Medical Privacy Project Open Wireless Movement Patent Busting Student Activism Surveillance Self-Defense Takedown Hall of Shame Teaching Copyright Transparency Project Trolling Effects Ways To Help why it had failed to notify the FISC about relevant information regarding preservation orders in two related cases, Jewel and Shubert. This failure had affected the court’s earlier ruling mandating that certain information be destroyed. It’s clear that the FISC simply can’t rely on the government to get the full picture. How the FISA Court Needs to Change The FISA Court must change in at least two ways: it needs a true advocate for privacy and civil liberties in the court and it must have institutionalized, systematic publication of significant opinions. As former FISC Judge James Carr has stated, reform requires an advocate for targets of surveillance, as well as for privacy and civil liberties. A special advocate for privacy would move the court towards the adversarial model. It would end blind reliance on the government’s candor, which has been proven to be less candid than the FISC itself would like. And a special advocate can bring technical expertise that the FISC might otherwise not have and help spot legal issues that might otherwise go unnoticed. Publication of significant interpretations of the law is also essential; there must be a public understanding of what the law means in practice. For this to work, declassification should not be held captive by the intelligence community, as is currently the case. At the very least, the Attorney General and the FISC itself should work together to determine what opinions should be published, based on clear guidelines about what significant interpretations of the law actually are. This is just a small step, though. The FISC secrecy is just one piece of the overall problem of overclassification, which needs broader reform. How S.2685, the New USA FREEDOM Act, Measures Up to the Needed Changes As we’ve noted, the bill makes two big changes to the FISC: it directs the Office of the Director of National Intelligence, in consultation with the Attorney General, to declassify “significant” FISA Court opinions and to summarize opinions that can’t be declassified. And it creates a panel of special advocates with the purpose of advocating “as appropriate, in support of legal interpretations that advance individual privacy and civil liberties.” The special advocates are meant to serve whenever an application “in the opinion of the court, presents a novel or significant interpretation of the law, unless the court issues a written finding that such appointment is not appropriate.” Prof. Steve Vladeck at Just Security has pointed out that a recent letter from Judge John Bates arguing against the new USA FREEDOM Act’s FISA Court reforms serves to reinforce exactly why they are needed, and indicates that they may very well be effective. Judge Bates, former presiding judge at the FISC, strongly decried several provisions of the new USA FREEDOM Act in his August 5 letter. The letter itself is a little unusual—Judge Bates states that he’s not expressing “preferences on fundamental policy choices,” but makes it clear that he supports the gutted House USA FREEDOM, H.R. 3361. Judge Bates’ concerns with regards to the special advocate can be summed up like this: nonadversarial proceedings are not a big deal. They happen all the time, and this process allows for lots of great conversation between the court and the government. A special advocate would complicate this. They are more than just an amicus, advising the court. They are advocating for privacy…..but our system isn’t designed to handle adversarial proceedings. An amicus provision, opines Bates, would be preferable. And as Judge Carr has pointed out, “An amicus represents no one. Instead, an amicus participates solely for the court’s benefit. This will not achieve true reform, which requires appointment of an attorney to represent the target (whether the target is an individual, group, or the public at large).” NSA Spying MORE DEEPLINKS POSTS LIKE THIS AUGUST 2013 How to Reform the Secretive FISA Court: Make It Less Secret JANUARY 2013 A New Year, a New FISA Amendments Act Reauthorization, But the Same Old Secret Law SEPTEMBER 2013 EFF's Cheat Sheet to Congress' NSA Spying Bills APRIL 2014 In the One-sided Foreign Intelligence Surveillance Court, It's Hard to Get The RECENT DEEPLINKS POSTS JUN 12, 2015 House Deals Major Blow to Obama's Secret Anti-User Trade Agenda JUN 12, 2015 Commerce Department FAQ on Proposed Wassenaar Implementation Gives Answers, Raises More Questions JUN 12, 2015 Damn the Equities, Sell Your Zero-Days to the Navy! JUN 12, 2015 Canadian Court Affirms Global Takedown Order to Google Judge Bates’ concerns are all aimed at maintaining the court as it is. He argues that a special advocate will upset the court's balance. In our opinion, that’s a good thing. Considering Judge Bates' conclusion in his October 2011 opinion that the system has "never functioned effectively," it is surprising that he doesn't agree. Judge Bates is concerned about potential reluctance on the part of the government to disclose important information to the court if a special advocate position is created. But the government has the obligation to disclose that information no matter what. And what’s more, we already know that the court as it is doesn’t work. If anything, the special advocate provisions in S. 2685 could be stronger. The special advocate could, when appropriate, have the specific purpose of representing potential targets of surveillance, instead of advocating generally for interpretations of the law that protect civil liberties. Judge Carr points out that counsel for a target is most important “on appeal. Enabling adversarial appellate review is crucial to increased confidence in the FISC and its work.” The special advocate could also have more independence. But the bottom line is that S. 2685’s special advocate provisions are a huge, necessary step forward. Judge Bates also has concerns about declassification of FISC opinions. S. 2685 directs the Office of the Director of National Intelligence, in consultation with the Attorney General, to declassify “significant” FISA Court opinions. He writes that creating summaries of opinions that can’t be declassified is “likely to result in misunderstanding of the opinion’s reasoning and result,” a concern he believes is “heightened when the only party to the proceeding—in this context, the government—is tasked with preparing the summary.” In contrast, Judge Carr believes that the FISC must have a significant role in the declassification process for the FISC’s own opinions. These objections point to potential weaknesses in S. 2685. We believe that a less interested party should be in charge of declassification—the legislation puts the Director of National Intelligence in charge of that process, which is a bit like the fox guarding the hen house. Judge Bates’ concerns that S. 2685 will interrupt the status quo at the FISC make a strong case that the legislation is a much-needed step in the right direction. **The status quo is broken.**

## Thus the Plan:

The USFG should significantly curtail its domestic surveillance by mandating declassification of court decisions and the instatement of a mandatory public privacy advocate position within FISA courts appointed or elected by a pro-transparency institution.

## Obs. 2 – Solvency

**Even FISA judges agree that a security cleared special advocate for the purpose of privacy protection would deter the government from pursuing potentially right abusing information gathering.**

FISA Amendment 1451, the “Judiciary,” and FISA Reform By Steve **Vladeck** Tuesday, June 2, **2015**, 6:22 AM http://www.lawfareblog.com/amendment-1451-%E2%80%9Cjudiciary%E2%80%9D-and-fisa-reform#

Ben’s post from late last night highlights, among other things, “Amendment 1451,” one of the proposed revisions to the USA FREEDOM Act (as passed by the House on May 13) that the Senate is set to consider in the coming days. Quoting from the internal Republican staff memo posted by Ben, Amendment 1451 apparently “provides that section 401 [the provision of the House bill that would create a “special advocate” qua amicus to appear opposite the government in the FISA Court] shall not have effect, and in its place creates a new section 110A in the underlying bill.” That provision, the memo provides, “basically reaffirms the inherent authority of a court to appoint amicus curiae to assist the court in its work.” [Note: Here’s the actual language of Amendment 1451.] Why is such a radical amendment to a provision in the House bill that was negotiated very carefully so necessary? According to the memo, “Amendment 1451 is responsive to the judiciary’s continual opposition to the amicus structure of the USA Freedom Act,” as manifested in “a letter to Congress from the director of the Administrative Office of the U.S. Courts.” Here’s the letter in question–from James Duff, who certainly is “the director of the Administrative Office of the U.S. Courts [AO]” (more on that in a moment). The letter is but the latest in a series of such missives–the previous iterations of which were all signed by Judge John D. Bates, former presiding judge of the FISA Court, in his previous capacity as Director of the AO. As I’ve written at great length before both here and at Just Security (and as I elaborate upon below the fold), though, for three different reasons, these letters are utter bullshit–and, as a result, Amendment 1451 is, too. First, let there be no question whether either Judge Bates or Director Duff actually is speaking on behalf of the judiciary; they’re not. Indeed, even the more nuanced argument–that, as Secretary of the Judicial Conference of the United States, they’re speaking on behalf of that body (which, by law, speaks for the courts on certain pending legislation and other matters when appropriate), is belied by then-Chief Judge Kozinski’s rather… blunt… August 14 letter to the Senate Judiciary and Intelligence Committees, in which he made quite clear that, as a member of the Judicial Conference (like all other chief circuit judges), “I have serious doubts about the views expressed by Judge Bates,” and “[i]nsofar as Judge Bates’s August 5th letter may be understood as reflecting my views, I advise the Committee that this is not so.” But even if Judge Bates and Director Duff were only purporting to speak for the FISA Court (not that they viewed their mandate so narrowly), it’s worth emphasizing that several of its judges have made various public statements supporting even more robust participation by a “special advocate” than that provided by the USA FREEDOM Act (see, for example, this July 2014 op-ed in The Hill by Judge James Carr). Simply put, it’s not at all clear to me, and never has been, exactly who Judge Bates or Director Duff are speaking for. If anything is clear, though, it’s that it sure isn’t “the judiciary,” writ large. Second, even if the AO, through Judge Bates or Director Duff, was speaking on behalf of the judiciary (and again, let’s be clear–they’re not), it’s not at all obvious that it would be either procedurally or substantively appropriate for them to do so. Here’s what I wrote back in August on the matter: why is it remotely the concern of the courts whether a legislative reform might “prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA”? As citizens, judges may think such a reform unwise; as judges, I have a hard time seeing how that objection is an appropriate one for them to make. And the third set of concerns [raised in Judge Bates’s August 5 letter]–that the proposed reforms might be unconstitutional–are even more out of place in this context, since they only impact judicial administration to the extent that any litigation challenging the constitutionality of new rules would; and, even more disturbingly, appear to prejudge the merits of such challenges. Indeed, even a cursory persual of 28 U.S.C. § 331 leaves me hard-pressed to find any authority for the Judicial Conference (as a whole) to directly comment on pending legislation in Congress, as compared to recommending changes to court rules “to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay”–to the Supreme Court. In other words, even if Judge Bates and Director Duff were actually speaking for the judiciary, their concerns don’t appear to be appropriate ones for judges qua judges to have, or ones with respect to which the “judiciary” has statutory authority to so directly participate. Third, and most importantly, even on the merits, the substantive concerns raised in these letters are, charitably, overstated. The Senate Republican staff memo quotes Director Duff’s letter’s focus on how participation of a “special advocate” would hinder the government’s candor before the FISA Court, and thereby present “greater challenges to the FISA Courts’ role in protecting civil liberties than does the lack of a non-governmental perspective on novel legal issues or technological developments.” This argument is almost laughably silly. Here’s what I wrote in August in response to Judge Bates’s invocation of the very same concern: Judge Bates offers no evidence in support of his claim that allowing a security cleared outside amicus to participate before the FISA Court will somehow affect the government’s duty of candor to the tribunal, or otherwise disrupt the (apparently quite congenial) relationship between the FISC and the relevant government stakeholders. Indeed, Congress has already provided for security cleared private counsel to participate in FISA Court proceedings in the contexts of applications under section 215 of the USA PATRIOT Actand section 702 of FISA (as amended by the FISA Amendments Act of 2008). Does Judge Bates object to those provisions, as well? If not, why would a security cleared special advocate be any different in this regard than a security cleared private lawyer for the recipient of a section 215 production order or section 702 directive? Judge Bates doesn’t say, nor does he offer any examples in which security cleared private counsel who have had access to classified information have unlawfully disclosed such information. Why would FISA proceedings be any different in this regard from, say, the Guantánamo habeas litigation? And insofar as the concern stems from reliance upon unclassified summaries, how is the [USA FREEDOM Act] any different from the well-established rules under the Classified Information Procedures Act (CIPA)? So too, here. In his August letter (although not in Director Duff’s more recent note), Judge Bates wrote that he feared that having to provide a special advocate with access to at least some of the classified information upon which surveillance applications are based “could prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA.” But if that‘s the objection, then, as I wrote back then, “it’s more than a little telling that the Executive Branch nevertheless supports the Senate bill. If this was really a genuine problem (indeed, some may well think that forcing such a choice is exactly the point), wouldn’t we expect to have heard about it from the intelligence community, the Justice Department, and/or the White House? That is to say, isn’t Judge Bates’s real objection here on behalf of the (apparently content) Executive Branch, and not the judiciary? Even the former FBI General Counsel has openly supported these kinds of reforms…” And even if section 401 of the USA FREEDOM Act would “prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA,” why is that a reason for the judiciary to oppose it??? I don’t mean to belabor the point. If anything, as I suggested yesterday, section 401 of the House-passed USA FREEDOM Act is a terribly weak version of what should have been a very good (and unobjectionable) idea–allowing a security-cleared outside lawyer to participate in the tiny percentage of cases before the FISC that involve applications for anything besides individualized warrants (you know, the cases in which adversarial participation is already authorized).Part of why section 401 is so weak is because members of Congress have consistently allowed themselves to be snookered by (or have found it convenient to hide behind) the objections of the “judiciary.” On the merits, though, these objections are patently unavailing. And they certainly aren’t the objections of the “judiciary.”

## Obs. 3 - Advantage 1 Democracy

**Ranciere postulates that true democracy is based on the ability to have dissent or some way to break consensus, without it, hierarchal oppression is inevitable.**

Mykolas **Gudelis** (The New School University, Politics, Graduate Student) Last accessed 6/14/**15** http://www.academia.edu/1960607/Rethinking\_Ranciere\_Democratic\_Politics\_Beyond\_Disagreement

At the core of modern liberal theories of democracy lies the concept of consensus.There, consensus functions as a mechanism allowing for the reconciliation of diverse opinions and points of view of the members of plural societies. Theoretical structures of these societies imply the presence of trust in institutional systems, which resolves conflicts and treats subjects equally, despite the diversity of their views. From this point of view, the stability of society depends onthe level of consensus it holds. In his political writings, Ranciere presents a reformulation of democratic politics based on consensus and puts forward the claim that the core of democratic politics is not consensus but rather the rationality of dissensus and disagreement. This understanding of politics, which Ranciere uses interchangeably with the concept of democracy, is presented in the background and in relation to the concept of “policing” or “police”. Police, as Ranciere tells us, are the discursive mechanism producing social forms, categories, structures, and hierarchies, which count and distribute positions and define who exercises power and who is subject to it in the community. The domain of such distribution always carries the element of the miscount, when a certain part of the community is not accounted for and, at the sensual level of the discourse, is rendered “invisible”. Police are precisely this mechanism that rests on the principle of the ruling based on possession of the qualifications to rule (merit, wealth, social status), determines the field of perception, and establishes the order according to which community parts are distributed, their positions and “proper” places are assigned, and their visibility or invisibility are determined. According to Ranciere, democracy as ruling based on no qualifications at all but the principle of radical equality of anyone to anybody else interrupts the logic of police governing the distribution of social spaces and positions. In the process of this “interruption” in a form of dissensus and disagreement, the “invisible” parts of the community “appear” on the stage of politics and become “visible”

**Currently an outside representative has next to no power and likely will never be called upon, this kills dissensus, and therefore democracy.**

“Privacy Advocates Call for FISA Court Reform” Denver **Nicks** July 10, **2014** http://time.com/2970766/privacy-freedom-act-reform-secret-nsa-oversight-fisa/

The Senate version of the USA Freedom Act would reform the process that led to NSA surveillance of five prominent Americans; Privacy advocates renewed their calls for reforms at the Foreign Intelligence Surveillance Court on Tuesday, after a new report revealed documents leaked by Edward Snowden that detail secret intelligence warrants against five American Muslims. The targeted individuals, found on a list of thousands of mostly foreign targets for court-reviewed surveillance, include a professor at Rutgers University, a former Bush administration official and the executive director of the nation’s largest Muslim civil rights group. Because the Justice Dept. and the FBI refused to comment, it is unknown on what grounds the men were targeted for surveillance, nor is it clear under what precise legal authority the surveillance was conducted. Civil libertarians say the report shows why the U.S. Congress should introducing a special advocate on the court, whose job it would be to represent civil liberties interests in court proceedings, and establishing a process for declassifying the court’s orders. Those reforms are included in a Senate version of an intelligence reform bill, but not the House version now under consideration. “It’s been one of the core issues lacking in the debate,” said Mark Jaycox, a legislative analyst with the Electronic Frontier Foundation, about the process by which secret warrants can be obtained from the secret court. To get a FISA warrant, the NSA does have to explain to the court who it wants to spy on and why, as well as what they hope to get from the surveillance, but the bar is significantly lower than in a civilian courtroom. “I would call it a Probable Cause Warrant Light,” Jaycox said. “It’s not the high standard of a probably cause warrant.” The version of the USA FREEDOM Act that passed in the House in May—which stirred controversy after civil liberties groups dropped support for the watered down legislation in droves—largely eliminated the special advocate position, replacing it instead with an official to consult in case of novel legal situations. The version of the bill championed by Senator Patrick Leahy, a Vermont Democrat, and under consideration in the Senate Judiciary Committee, includes a special advocate who would permanently represent privacy interests on the court. The secrecy of proceedings in the highly-classified FISC and the question of declassification has been another major point of contention. “The House-passed version of the bill has enormous loopholes to that requirement,” said ACLU Legislative Counsel Neema Singh Guliani. Whereas the Senate bill establishes a timeline and a process for making FISC decisions public in redacted form, the House version removed that requirement, allowing the FISC to instead declassify decisions “when practical” and to publish only a summary of their legal reasoning, Guliani said.

**FISA Courts are the number one example of suppression of democracy in the United States, without true reform FISA is the first step to authoritarianism.**

W.W. **HOUSTON** “America against democracy” Jul 9th **2013** http://www.economist.com/blogs/democracyinamerica/2013/07/secret-government

REVELATIONS in the wake of Edward Snowden's civil disobedience continue to roll in. The New York Times reports that the Federal Intelligence Surveillance Court, also known as the FISA court, "has quietly become almost a parallel Supreme Court, serving as the ultimate arbiter on surveillance issues and delivering opinions that will most likely shape intelligence practices for years to come..." How is the FISA court like a shadow Supreme Court? Its interpretation of the constitution is treated by the federal government as law. The Times reports: In one of the court’s most important decisions, the judges have expanded the use in terrorism cases of a legal principle known as the “special needs” doctrine and carved out an exception to the Fourth Amendment’s requirement of a warrant for searches and seizures, the officials said. Of course, there are important differences. None of the judges of the FISA court were vetted by Congress. They were appointed by a single unelected official: John Roberts, the chief justice of the Supreme Court. And then there's the fact that "the FISA court hears from only one side in the case—the government—and its findings are almost never made public." A court that is supreme, in the sense of having the final say, but where arguments are only ever submitted on behalf of the government, and whose judges are not subject to the approval of a democratic body, sounds a lot like the sort of thing authoritarian governments set up when they make a half-hearted attempt to create the appearance of the rule of law. According to the Times, Geoffrey Stone, a law professor at the University of Chicago, "said he was troubled by the idea that the court is creating a significant body of law without hearing from anyone outside the government, forgoing the adversarial system that is a staple of the American justice system." I'm troubled, too. Meanwhile, the Wall Street Journal adds some meat to the story by reporting that "The National Security Agency’s ability to gather phone data on millions of Americans hinges on the secret redefinition of the word 'relevant'". In classified orders starting in the mid-2000s, the court accepted that "relevant" could be broadened to permit an entire database of records on millions of people, in contrast to a more conservative interpretation widely applied in criminal cases, in which only some of those records would likely be allowed, according to people familiar with the ruling. "Relevant" has long been a broad standard, but the way the court is interpreting it, to mean, in effect, "everything," is new, says Mark Eckenwiler, a senior counsel at Perkins Coie LLP who, until December, was the Justice Department's primary authority on federal criminal surveillance law.[...] Two senators on the Intelligence Committee, Ron Wyden (D., Ore.) and Mark Udall (D., Colo.), have argued repeatedly that there was a "secret interpretation" of the Patriot Act. The senators' offices tell the Journal that this new interpretation of the word "relevant" is what they meant. Think about that. Doesn't that suggest to you that Messrs Wyden and Udall were afraid they might be subject to some sort of censure or reprisal were they to share with the public specific details about the official interpretation of the law to which the public is subject? And those specific details were about the interpretation of "relevant"? Now that that cat's out of the bag, I guess we're in danger? All this somehow got me thinking of the doctrine of "democracy promotion", which was developed under George W. Bush and maintained more or less by Barack Obama. The doctrine is generally presented as half-idealism, half-practicality. That all the people of the Earth, by dint of common humanity, are entitled to the protections of democracy is an inspiring principle. However, its foreign-policy implications are not really so clear. To those of us who are sceptical that America has the authority to intervene whenever and wherever there are thwarted democratic rights, the advocates of democracy-promotion offer a more businesslike proposition. It is said that authoritarianism, especially theocratic Islamic authoritarianism, breeds anti-American terrorism, and that swamp-draining democracy-promotion abroad is therefore a priority of American national security. If you don't wish to asphyxiate on poison gas in a subway, or lose your legs to detonating pressure-cookers at a road-race, it is in your interest to support American interventions on behalf of democracy across the globe. So the story goes. However, the unstated story goes, it is equally important that American democracy not get out of hand. If you don't want your flight to La Guardia to end in a ball of fire, or your local federal building to be razed by a cataclysm of exploding fertiliser, you will need to countenance secret courts applying in secret its own secret interpretation of hastily drawn, barely debated emergency security measures, and to persecute with the full force of the world's dominant violent power any who dare afford a glimpse behind the veil. You see, democracy here at home must be balanced against the requirements of security, and it is simply too dangerous to leave the question of this balance to the democratic public. Open deliberation over the appropriate balance would require saying something concrete about threats to public safety, and also about the means by which those threats might be checked. But revealing such information would only empower America's enemies and endanger American lives. Therefore, this is a discussion Americans can't afford to have. Therefore, the power to determine that this is a discussion the public cannot afford to have cannot reside in the democratic public. That power must reside elsewhere, with the best and brightest, with those who have surveyed the perils of the world and know what it takes to meet them. Those deep within the security apparatus, within the charmed circle, must therefore make the decision, on America's behalf, about how much democracy—about how much discussion about the limits of democracy, even—it is safe for Americans to have. This decision will not be effective, however, if it is openly questioned. The point is that is not up for debate. It is crucial, then, that any attempt by those on the inside to reveal the real, secret rules governing American life be met with overwhelming, intimidating retaliation. In order to maintain a legitimising democratic imprimatur, it is of course important that a handful of elected officials be brought into the anteroom of the inner council, but it's important that they know barely more than that there is a significant risk that we will all perish if they, or the rest of us, know too much, and they must be made to feel that they dare not publicly speak what little they have been allowed know. Even senators. Even senators must fear to describe America's laws to America's citizens. This is, yes, democracy-suppression, but it is a vitally necessary arrangement. It keeps you and your adorable kids and even your cute pet dog alive. Now, I don't believe I've heard anyone make this argument, no doubt because the logic of the argument cuts against it being made. Yet it seems similar reasoning must underpin the system of secret government that has emerged from the examination of Mr Snowden's leaks, and I cannot help but suspect that something along these lines has become the unspoken, unspeakable doctrine of Mr Obama's administration. Yet I remember when the Mr Obama announced this: My Administration is committed to creating an unprecedented level of openness in Government. We will work together to ensure the public trust and establish a system of transparency, public participation, and collaboration. Openness will strengthen our democracy and promote efficiency and effectiveness in Government. That would have been some real democracy-promotion, right here in the homeland. What happened? Is it naive to think Mr Obama really believed this stuff? I'll admit, with some embarrassment, that I'd thought he did believe it. But this "commitment" has been so thoroughly forsaken one is forced to consider whether it was ever sincere. It has been so thoroughly forsaken one wonders whether to laugh or cry. What kind of message are we sending about the viability these democratic ideals—about openness, transparency, public participation, public collaboration? How hollow must American exhortations to democracy sound to foreign ears? Mr Snowden may be responsible for having exposed this hypocrisy, for having betrayed the thug omertà at the heart of America's domestic democracy-suppression programme, but the hypocrisy is America's. I'd very much like to know what led Mr Obama to change his mind, to conclude that America is not after all safe for democracy, though I know he's not about to tell us. The matter is settled. It has been decided, and not by us. We can't handle the truth.

**And, Democracy is the only way to prevent nuclear wars, without it we’re doomed.**

**Muravchik 2001** – Resident Scholar at American Enterprise Institute

[Joshua, “Democracy and nuclear peace,” Jul 11, <http://www.npec-web.org/syllabi/muravchik.htm>]

The greatest impetus for world peace -- and perforce of nuclear peace -- is the spread of democracy. In a famous article, and subsequent book, Francis Fukuyama argued that democracy's extension was leading to "the end of history." By this he meant the conclusion of man's quest for the right social order, but he also meant the "diminution of the likelihood of large-scale conflict between states." (1) Fukuyama's phrase was intentionally provocative, even tongue-in-cheek, but he was pointing to two down-to-earth historical observations: that democracies are more peaceful than other kinds of government and that the world is growing more democratic. Neither point has gone unchallenged. Only a few decades ago, as distinguished an observer of international relations as George Kennan made a claim quite contrary to the first of these assertions. Democracies, he said, were slow to anger, but once aroused "a democracy . . . . fights in anger . . . . to the bitter end." (2) Kennan's view was strongly influenced by the policy of "unconditional

surrender" pursued in World War II. But subsequent experience, such as the negotiated settlements America sought in Korea and Vietnam proved him wrong. Democracies are not only slow to anger but also quick to compromise. And to forgive. Notwithstanding the insistence on unconditional surrender, America treated Japan and that part of Germany that it occupied with extraordinary generosity. In recent years a burgeoning literature has discussed the peacefulness of democracies. Indeed the proposition that democracies do not go to war with one another has been described by one political scientist as being "as close as anything we have to an empirical law in international relations." (3) Some of those who find enthusiasm for democracy off-putting have challenged this proposition, but their challenges have only served as empirical tests that have confirmed its robustness. For example, the academic Paul Gottfried and the columnist-turned-politician Patrick J. Buchanan have both instanced democratic England's declaration of war against democratic Finland during World War II. (4) In fact, after much procrastination, England did accede to the pressure of its Soviet ally to declare war against Finland which was allied with Germany. But the declaration was purely formal: no fighting ensued between England and Finland. Surely this is an exception that proves the rule. The strongest exception I can think of is the war between the nascent state of Israel and the Arabs in 1948. Israel was an embryonic democracy and Lebanon, one of the Arab belligerents, was also democratic within the confines of its peculiar confessional division of power. Lebanon, however, was a reluctant party to the fight. Within the councils of the Arab League, it opposed the war but went along with its larger confreres when they opted to attack. Even so, Lebanon did little fighting and soon sued for peace. Thus, in the case of Lebanon against Israel, as in the case of England against Finland, democracies nominally went to war against democracies when they were dragged into conflicts by authoritarian allies. The political scientist Bruce Russett offers a different challenge to the notion that democracies are more peaceful. "That democracies are in general, in dealing with all kinds of states, more peaceful than are authoritarian or other nondemocratically constituted states . . . .is a much more controversial proposition than 'merely' that democracies are peaceful in their dealings with each other, and one for which there is little systematic evidence," he says. (5) Russett cites his own and other statistical explorations which show that while democracies rarely fight one another they often fight against others. The trouble with such studies, however, is that they rarely examine the question of who started or caused a war. To reduce the data to a form that is quantitatively measurable, it is easier to determine whether a conflict has occurred between two states than whose fault it was. But the latter question is all important. Democracies may often go to war against dictatorships because the dictators see them as prey or underestimate their resolve. Indeed, such examples abound. Germany might have behaved more cautiously in the summer of 1914 had it realized that England would fight to vindicate Belgian neutrality and to support France. Later, Hitler was emboldened by his notorious contempt for the flabbiness of the democracies. North Korea almost surely discounted the likelihood of an American military response to its invasion of the South after Secretary of State Dean Acheson publicly defined America's defense perimeter to exclude the Korean peninsula (a declaration which merely confirmed existing U.S. policy). In 1990, Saddam Hussein's decision to swallow Kuwait was probably encouraged by the inference he must have taken from the statements and actions of American officials that Washington would offer no forceful resistance. Russett says that those who claim democracies are in general more peaceful "would have us believe that the United States was regularly on the defensive, rarely on the offensive, during the Cold War." But that is not quite right: the word "regularly" distorts the issue. A victim can sometimes turn the tables on an aggressor, but that does not make the victim equally bellicose. None would dispute that Napoleon was responsible for the Napoleonic wars or Hitler for World War II in Europe, but after a time their victims seized the offensive. So in the Cold War, the United States may have initiated some skirmishes (although in fact it rarely did), but the struggle as a whole was driven one-sidedly. The Soviet policy was "class warfare"; the American policy was "containment." The so-called revisionist historians argued that America bore an equal or larger share of responsibility for the conflict. But Mikhail Gorbachev made nonsense of their theories when, in the name of glasnost and perestroika, he turned the Soviet Union away from its historic course. The Cold War ended almost instantly--as he no doubt knew it would. "We would have been able to avoid many . . . difficulties if the democratic process had developed normally in our country," he wrote. (7) To render judgment about the relative peacefulness of states or systems, we must ask not only who started a war but why. In particular we should consider what in Catholic Just War doctrine is called "right intention," which means roughly: what did they hope to get out of it? In the few cases in recent times in which wars were initiated by democracies, there were often motives other than aggrandizement, for example, when America invaded Grenada. To be sure, Washington was impelled by self-interest more than altruism, primarily its concern for the well-being of American nationals and its desire to remove a chip, however tiny, from the Soviet game board. But America had no designs upon Grenada, and the invaders were greeted with joy by the Grenadan citizenry. After organizing an election, America pulled out. In other cases, democracies have turned to war in the face of provocation, such as Israel's invasion of Lebanon in 1982 to root out an enemy sworn to its destruction or Turkey's invasion of Cyprus to rebuff a power-grab by Greek nationalists. In contrast, the wars launched by dictators, such as Iraq's invasion of Kuwait, North Korea's of South Korea, the Soviet Union's of Hungary and Afghanistan, often have aimed at conquest or subjugation. The big exception to this rule is colonialism. The European powers conquered most of Africa and Asia, and continued to hold their prizes as Europe democratized. No doubt many of the instances of democracies at war that enter into the statistical calculations of researchers like Russett stem from the colonial era.

But colonialism was a legacy of Europe's pre-democratic times, and it was abandoned after World War II. Since then, I know of no case where a democracy has initiated warfare without significant provocation or for reasons of sheer aggrandizement, but there are several cases where dictators have done so. One interesting piece of Russett's research should help to point him away from his doubts that democracies are more peaceful in general. He aimed to explain why democracies are more peaceful toward each other. Immanuel

Kant was the first to observe, or rather to forecast, the pacific inclination of democracies. He reasoned that "citizens . . . will have a great hesitation in . . . . calling down on themselves all the miseries of war." (8) But this valid insight is incomplete. There is a deeper explanation. Democracy is not just a mechanism; it entails a spirit of compromise and self-restraint. At bottom, democracy is the willingness to resolve civil disputes without recourse to violence. Nations that embrace this ethos in the conduct of their domestic affairs are naturally more predisposed to embrace it in their dealings with other nations. Russett aimed to explain why democracies are more peaceful toward one another. To do this, he constructed two models. One hypothesized that the cause lay in the mechanics of democratic decision-making (the "structural/institutional model"), the other that it lay in the democratic ethos (the "cultural/normative model"). His statistical assessments led him to conclude that: "almost always the cultural/normative model shows a consistent effect on conflict occurrence and war. The structural/institutional model sometimes provides a significant relationship but often does not." (9) If it is the ethos that makes democratic states more peaceful toward each other, would not that ethos also make them more peaceful in general? Russett implies that the answer is no, because to his mind a critical element in the peaceful behavior of democracies toward other democracies is their anticipation of a conciliatory attitude by their counterpart. But this is too pat. The attitude of live-and-let-live cannot be turned on and off like a spigot. The citizens and officials of democracies recognize that other states, however governed, have legitimate interests, and they are disposed to try to accommodate those interests except when the other party's behavior seems threatening or outrageous. A different kind of challenge to the thesis that democracies are more peaceful has been posed by the political scientists Edward G. Mansfield and Jack Snyder. They claim statistical support for the proposition that while fully fledged democracies may be pacific, Ain th[e] transitional phase of democratization, countries become more aggressive and war-prone, not less." (10) However, like others, they measure a state's likelihood of becoming involved in a war but do not report attempting to determine the cause or fault. Moreover, they acknowledge that their research revealed not only an increased likelihood for a state to become involved in a war when it was growing more democratic, but an almost equal increase for states growing less democratic. This raises the possibility that the effects they were observing were caused simply by political change per se, rather than by democratization. Finally, they implicitly acknowledge that the relationship of democratization and peacefulness may change over historical periods. There is no reason to suppose that any such relationship is governed by an immutable law. Since their empirical base reaches back to 1811, any effect they report, even if accurately interpreted, may not hold in the contemporary world. They note that "in [some] recent cases, in contrast to some of our historical results, the rule seems to be: go fully democratic, or don't go at all." But according to Freedom House, some 62.5 percent of extant governments were chosen in legitimate elections. (12) (This is a much larger proportion than are adjudged by Freedom House to be "free states," a more demanding criterion, and it includes many weakly democratic states.) Of the remaining 37.5 percent, a large number are experiencing some degree of democratization or heavy pressure in that direction. So the choice "don't go at all" (11) is rarely realistic in the contemporary world. These statistics also contain the answer to those who doubt the second proposition behind Fukuyama's forecast, namely, that the world is growing more democratic. Skeptics have drawn upon Samuel Huntington's fine book, The Third Wave: Democratization in the Late Twentieth Century. Huntington says that the democratization trend that began in the mid-1970s in Portugal, Greece and Spain is the third such episode. The first "wave" of democratization began with the American revolution and lasted through the aftermath of World War I, coming to an end in the interwar years when much of Europe regressed back to fascist or military dictatorship. The second wave, in this telling, followed World War II when wholesale decolonization gave rise to a raft of new democracies. Most of these, notably in Africa, collapsed into dictatorship by the 1960s, bringing the second wave to its end. Those who follow Huntington's argument may take the failure of democracy in several of the former Soviet republics and some other instances of backsliding since 1989 to signal the end of the third wave. Such an impression, however, would be misleading. One unsatisfying thing about Huntington's "waves" is their unevenness. The first lasted about 150 years, the second about 20. How long should we expect the third to endure? If it is like the second, it will ebb any day now, but if it is like the first, it will run until the around the year 2125. And by then--who knows?--perhaps mankind will have incinerated itself, moved to another planet, or even devised a better political system. Further, Huntington's metaphor implies a lack of overall progress or direction. Waves rise and fall. But each of the reverses that followed Huntington's two waves was brief, and each new wave raised the number of democracies higher than before. Huntington does, however, present a statistic that seems to weigh heavily against any unidirectional interpretation of democratic progress. The proportion of states that were democratic in 1990 (45%), he says, was identical to the proportion in 1922. (13) But there are two answers to this. In 1922 there were only 64 states; in 1990 there were 165. But the number of peoples had not grown appreciably. The difference was that in 1922 most peoples lived in colonies, and they were not counted as states. The 64 states of that time were mostly the advanced countries. Of those, two thirds had become democratic by 1990, which was a significant gain. The additional 101 states counted in 1990 were mostly former colonies. Only a minority, albeit a substantial one, were democratic in 1990, but since virtually none of those were democratic in 1922, that was also a significant gain. In short, there was progress all around, but this was obscured by asking what percentage of states were democratic. Asking the question this way means that a people who were subjected to a domestic dictator counted as a non-democracy, but a people who were subjected to a foreign dictator did not count at all. Moreover, while the criteria for judging a state democratic vary, the statistic that 45 percent of states were democratic in 1990 corresponds with Freedom House's count of "democratic" polities (as opposed to its smaller count of "free" countries, a more demanding criterion). But by this same count, Freedom House now says that the proportion of democracies has grown to 62.5 percent. In other words, the "third wave" has not abated. That Freedom House could count 120 freely elected governments by early 2001 (out of a total of 192 independent states) bespeaks a vast transformation in human governance within the span of 225 years. In 1775, the number of democracies was zero. In 1776, the birth of the United States of America brought the total up to one. Since then, democracy has spread at an accelerating pace, most of the growth having occurred within the twentieth century, with greatest momentum since 1974. That this momentum has slackened somewhat since its pinnacle in 1989, destined to be remembered as one of the most revolutionary years in all history, was inevitable. So many peoples were swept up in the democratic tide that there was certain to be some backsliding. Most countries' democratic evolution has included some fits and starts rather than a smooth progression. So it must be for the world as a whole. Nonetheless, the overall trend remains powerful and clear. Despite the backsliding, the number and proportion of democracies stands higher today than ever before. This progress offers a source of hope for enduring nuclear peace. The danger of nuclear war was radically reduced almost overnight when Russia abandoned Communism and turned to democracy. For other ominous corners of the world, we may be in a kind of race between the emergence or growth of nuclear arsenals and the advent of democratization. If this is so, the greatest cause for worry may rest with the Moslem Middle East where nuclear arsenals do not yet exist but where the prospects for democracy may be still more remote.

## Obs. 4 - Advantage 2 Hegemony

**U.S. hegemonic power and perception is low now, several reasons**

Mitchell B. **Reiss**, “Restoring America’s Image: What the Next President Can Do,” SURVIVAL v. 50 n. 5, October **2008**, pp. 99-114.

America's image in the world today is not all that it should be. Blame for this is most often assigned to President George W. Bush, but greater responsibility rests with deeper changes in the international system: the resentment (and fear) caused by the preponderance of American power, the loosening of alliances after the demise of the Soviet Union, a fundamental rethinking of the laws of war and peace in an age of terror, the co-branding of the United States with the forces of modernity and globalisation, and a demographic change that has sidelined the post-Second World War generation with their historical memories of American bravery and generosity. The next US president can start to restore America's image by setting a new tone, adroitly managing the US presence in the Persian Gulf and adopting new policies on climate change, immigration, world trade, and Guantanamo Bay. Even so, resurrecting America's image will be a slow, long-term process.

**The use of surveillance in the US by FISA is a threat to American hegemony, could topple America’s ability to respond to global warming, prevent anarchy, and maintain hegemony.**

Marcy **Wheeler** Tuesday, May 27, **2014** by EmptyWheel.net “What If the Democratic Response to Snowden Is to Expand Surveillance?” http://www.commondreams.org/views/2014/05/27/what-if-democratic-response-snowden-expand-surveillance

I got distracted reading two pieces this morning. This great Andrew O’Hehir piece, on how those attacking Edward Snowden and Glenn Greenwald ought to consider the lesson of Justice Louis Brandeis’ dissent in Olmstead. In the famous wiretapping case Olmstead v. United States, argued before the Supreme Court in 1928, Justice Louis Brandeis wrote one of the most influential dissenting opinions in the history of American jurisprudence. Those who are currently engaged in what might be called the Establishment counterattack against Glenn Greenwald and Edward Snowden, including the eminent liberal journalists Michael Kinsley and George Packer, might benefit from giving it a close reading and a good, long think. Brandeis’ understanding of the problems posed by a government that could spy on its own citizens without any practical limits was so far-sighted as to seem uncanny. (We’ll get to that.) But it was his conclusion that produced a flight of memorable rhetoric from one of the most eloquent stylists ever to sit on the federal bench. Government and its officers, Brandeis argued, must be held to the same rules and laws that command individual citizens. Once you start making special rules for the rulers and their police – for instance, the near-total impunity and thick scrim of secrecy behind which government espionage has operated for more than 60 years – you undermine the rule of law and the principles of democracy. “Our Government is the potent, the omnipresent teacher,” Brandeis concluded. “For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means — to declare that the Government may commit crimes in order to secure the conviction of a private criminal — would bring terrible retribution.” And this more problematic Eben Moglen piece talking about how Snowden revealed a threat to democracy we must now respond to. So [Snowden] did what it takes great courage to do in the presence of what you believe to be radical injustice. He wasn’t first, he won’t be last, but he sacrificed his life as he knew it to tell us things we needed to know. Snowden committed espionage on behalf of the human race. He knew the price, he knew the reason. But as he said, only the American people could decide, by their response, whether sacrificing his life was worth it. So our most important effort is to understand the message: to understand its context, purpose, and meaning, and to experience the consequences of having received the communication. Even once we have understood, it will be difficult to judge Snowden, because there is always much to say on both sides when someone is greatly right too soon. I raise them in tandem here because both address the threat of spying to something called democracy. And the second piece raises it amid the context of American Empire (he compares the US to the Roman decline into slavery). I raise them here for two reasons. First, because neither directly notes that Snowden claimed he leaked the documents to give us a choice, the “chance to determine if it should change itself.” “For me, in terms of personal satisfaction, the mission’s already accomplished,” he said. “I already won. As soon as the journalists were able to work, everything that I had been trying to do was validated. Because, remember, I didn’t want to change society. I wanted to give society a chance to determine if it should change itself.” “All I wanted was for the public to be able to have a say in how they are governed,” he said. “That is a milestone we left a long time ago. Right now, all we are looking at are stretch goals.” Snowden, at least, claims to have contemplated the possibility that, given a choice, we won’t change how we’re governed. And neither O’Hehir nor Moglen contemplates the state we’re currently in, in which what we call democracy is choosing to expand surveillance in response to Snowden’s disclosures. Admittedly, the response to Snowden is not limited to HR 3361. I have long thought a more effective response might (or might not!) be found in courts — that if, if the legal process does not get pre-empted by legislation. I have long thought the pressure on Internet companies would be one of the most powerful engines of change, not our failed democratic process. But as far as Congress is concerned, our stunted legislative process has started down the road of expanding surveillance in response to Edward Snowden. And that’s where I find Moglen useful but also problematic. He notes that the surveillance before us is not just part of domestic control (indeed, he actually pays less attention to the victims of domestic surveillance than I might have, but his is ultimately a technical argument), but also of Empire. While I don’t think it’s the primary reason driving the democratic response to Snowden to increase surveillance (I think that also stems from the Deep State’s power and the influence of money on Congress, though many of the surveillance supporters in Congress are also supporting a certain model of US power), I think far too many people act on surveillance out of either explicit or implicit beliefs about the role of US hegemony. There are some very rational self-interested reasons for Americans to embrace surveillance. For the average American, there’s the pride that comes from living in the most powerful country in history, all the more so now that that power is under attack, and perhaps the belief that “Us” have a duty to take it to “Them” who currently threaten our power. And while most won’t acknowledge it, even the declining American standard of living still relies on our position atop the world power structure. We get cheap goods because America is the hegemonic power. To the extent that spying on the rest of the world serves to shore up our hegemonic position then, the average American might well have reason to embrace the spying, because it keeps them in flat screen TVs. But that privilege is just enjoyed by some in America. Moglen, tellingly, talks a lot about slavery but says nothing about Jim Crow or the other instruments of domestic oppression that have long used authoritarian measures against targeted populations to protect white male power. American history looked at not against the history of a slavery that is past, but rather against the continuity of history in which some people — usually poor and brown and/or female — don’t participate in the American “liberty” and “privacy” Moglen celebrates, our spying on the rest of the world is more of the same, a difference in reach but not in kind. Our war on drugs and war on terror spying domestically is of a piece with our dragnet internationally, if thus far more circumscribed by law (but that law is expanding and that will serve existing structures of power!). But there’s another reason Americans — those of the Michael Kinsley and George Packer class — might embrace surveillance. That’s the notion that American hegemony is, for all its warts, the least bad power out there. I suspect Kinsley and (to a lesser extent) Packer would go further, saying that American power is affirmatively good for the rest of the world. And so we must use whatever it takes to sustain that power. It sounds stupid when I say it that way. I’m definitely oversimplifying the thought process involved. Still, it is a good faith claim: that if the US curtails its omnipresent dragnet and China instead becomes the dominant world power (or, just as likely, global order will dissolve into chaos), we’ll all be worse off. I do think there’s something to this belief, though it suppresses the other alternative — that the US could use this moment to improve the basis from which US exercises its hegemony rather than accept the increasingly coercive exercise of our power — or better yet use the twilight of our hegemony to embrace something more fair (and also something more likely to adequately respond to the global threat of climate change). But I do believe those who claim US hegemony serves the rest of the world believe it fairly uncritically. One more thing. Those who believe that American power is affirmatively benign power may be inclined to think the old ways of ensuring that power — which includes a docile press — are justified. As much as journalism embraced an adversarial self-image after Watergate, the fundamentally complicit role of journalism really didn’t change for most. Thus, there remains a culture of journalism in which it was justified to tell stories to the American people — and the rest of the world — to sustain American power. One of those stories, for example, is the narrative of freedom that Moglen embraces. That is, for those who believe it is worth doing whatever it takes to sustain the purportedly benign American hegemon, it would be consistent to also believe that journalists must also do whatever it takes to sustain purportedly benign system of (white male) power domestically, which we call democracy but which doesn’t actually serve the needs of average Americans. And for better or worse, those who embrace that power structure, either domestically and/or internationally, expanding surveillance is rational, so long as you ignore the collateral damage.

The only way to remain hegemonic is through smart power. Our perception in the international community is key.

 (General Michael **Hagee 2009**, former Commandant of the U.S. Marine Corps “Testimony of General Michael Hagee United States Marine Corps (Retired),” *DISAM Journal of International Security Assistance Management*, pg nexis//ef)

I believe the balance the Committee is looking for is in the application of "smart power", an approach that ensures that we have strong investments in global development and diplomacy alongside a strong defense. For the United States to be an effective world leader, and to keep our country safe and secure, we must balance all of the tools of our national power, military and non-military. Mr. Chairman,I think of smart power as the strategic triad of the 21st century- the integrated blend of defense, diplomacy, and development**.** But this strategic approach will only be effective if all three smart power pillars are coherent, coordinated, and adequately resourced. While the Department of Defense rightfully has received strong Congressional support over the years,funding and support for the State Department andUnited States Agency for International Development **(**USAID) has been **more** problematic. It is time to address the imbalance, both in strategic emphasis and in funding. I am here today as a member of the National Security Advisory Council for the Center for U.S. Global Engagement and the U.S. Global Leadership Campaign. I am proud to join with nearly fifty retired senior flag and general officers who share a concern about the future of our country and the need to revitalize America's global leadership. Our allies in this effort include a bipartisan array of some of America's most distinguished civil servants, Congressional leaders, and Cabinet Secretaries. This coalition also includes major American corporations such as Boeing, Caterpillar, Lockheed Martin, Microsoft, and Pfizer, as well as private voluntary groups such as Mercy Corps, represented here today by my fellow witness, Nancy Lindborg, and hundreds of others such as CARE, Catholic Relief Services, International Rescue Committee, Save the Children, and World Vision, to name a few. Despite our diverse backgrounds, we share a common belief that America is under-investing in the array of tools that are vital to our national security, our economic prosperity, and our moral leadership as a nation. Now some may wonder why a Marine, an infantryman, a warfighter, would advocate for empowering the DOS, USAID, and our civilian-led engagement overseas. I am here becauseI have been on the front line of America's presence in the world**,** in some of the most difficult security environments;and I know that the U.S. cannot rely on military power alone to keep us safe from terrorism, infectious disease, economic insecurity, and other global threats that recognize no borders**.** And I know thatthe military should not do what is best done by civilians**.** Mr. Chairman, I have witnessed many of the tough security and global challenges that burden the world today. I have been in nations that have failed to provide the most basic services to their citizens, in areas where tribal and clan divisions threaten unbelievable violence to the innocent. In Somalia, I saw the consequences of poverty and hunger that result in anger, resentment, and desperation. Some people respond with slow surrender to this hardship, while others look for political conspiracies and/or turn to extremist ideologies or crime to seek blame or retribution for a life of frustration. When that frustration spills over into armed conflict, the alarms go off; and too often our military is forced into action. We have the strongest and most capable armed forces in the world; yet as this committee knows so well, the military is a blunt instrument to deal with these sorts of challenges. The U.S. military does have its unique strengths: in times of humanitarian crisis, such as during the Asian tsunami in 2004 or the Pakistani earthquake in 2005. We can provide the logistics and organization to [help get] humanitarian aid to those in need; no other organization on this earth can respond as quickly or efficiently. We can break aggression, restore order, maintain security, and save lives. And where our actions are clearly humanitarian in nature, they have been well-regarded by the people we helped and have bolstered America's image overseas. Butthe military is not the appropriate tool to reform a government, improve a struggling nation's economic problems, redress political grievances, or create civil society. It is not, nor should it be, a substitute for civilian-led, governmental and non-governmental efforts that address the long-term challenges of helping people gain access to decent health care, education, and jobs. To be clear,all the military instrument can do is to create the conditions of security and stability that allow the other tools of statecraft- diplomatic and development tools- to be successful. But as my colleague General Zinni has said,when those tools are underfunded, understaffed, and underappreciated, the courageous sacrifice of the men and women in uniform can be wasted. We must match our military might with a mature diplomatic and development effort worthy of the enormous global challenges facing our nation today. We have to take some of the burden off the shoul-ders of our troops and give them to our civilian counterparts with core competencies in diplomacy and development. As I look back, we all know how this imbalance came to be. As the funding for the DOS and the development agencies was either flat or declined, going back over many Administrations, the military mission expanded to fill the void. The DOS and USAID has been forced to make do with fewer personnel, more responsibility, less resources, and less flexibility in how to spend those resources. This has not developed overnight. Former Chairman of the Joint Chiefs General Shalikashvili warned years ago:What we are doing to our diplomatic capabilities is criminal. By slashing them, we are less able to avoid disasters such as Somalia or Kosovo; and, therefore, we will be obliged to use military force still more often.1 [General Shalikashvili 's comments [above] sound remarkably similar to those of Defense Secretary Gates, who said last July 2008 [below]].In the campaign against terrorist networks and other extremists, we know that direct military force will continue to have a role. But over the long term, we cannot kill or capture our way to victory**.** What the Pentagon calls "kinetic" operations should be subordinate to measures to promote participation in government, economic programs to spur development, and efforts to address the grievances that often lie at the heart of insurgenciesand among the discontented from which the terrorists recruit **.**.. it has become clear thatAmerica's civilian institutions of diplomacy and development have been chronically undermanned and underfunded for far too long- relative to what we traditionally spend on the military and, more important, relative to the responsibilities and challenges our nation has around the world.2 Mr. Chairman, we all know that some believe it is easier to vote for defense spending than for foreign assistance. But it is time to rethink these patterns. We need [to] take a comprehensive approach to promote our national security. Strengthening our development and diplomatic agencies and programs will not only reduce the burden on our troops, but will stimulate economic growth which will increase international demand for U.S. goods and products- and in turn will create American jobs. It is in our nation's self-interest to make a larger investment in global development and poverty reduction. Clearly, the global financial crisis gives new impetus to action. The World Bank reports that the crisis is driving as many as 53 million more people into poverty as economic growth slows around the world, on top of the 130-155 million people pushed into poverty in 2008 because of soaring food and fuel prices.3 This rise in global poverty and instability is complicating our national security threats well beyond the two wars we are already fighting in Iraq and Afghanistan. Although we have a profound economic crisis and budget pressure, I do not believe that we can wait to modernize and strengthen our foreign assistance programs, to make the best use of American skills for the betterment of the world, and the most effective use of taxpayer dollars. It is time to put smart power to work. Mr. Chairman, there is growing support for this shift in our global engagement strategy. Over the past two years, over 2000 pages and 500 expert contributors in more than 20 reports have concluded that America needs to strengthen its civilian capacity as a critical part of our foreign policy and national security strategy. From RAND [Corporation] to Brookings, American Enterprise Institute (AEI) to [Center for Strategic and International Studies (CSIS), the Helping to Enhance the Livelihood of People Around the Globe HELP Commission to the Center for American Progress, a diverse, bipartisan group of experts and institutions agree that many of the security threats facing the United States today cannot be solved by the sole use of military personnel and force. These experts conclude that a shift to a smart power strategy is necessary to improve America's image in the world and make our global engagement efforts more effective**.**4 Among the wide variety of recommendations contained in these studies, seven action areas stand out: \* Formulate a comprehensive national security strategy that clearly articulates the required capacity for ALL elements of national power needed to achieve our national security goals **\*** Increase substantially funding and resources for civilian-led agencies and programs, especially through USAID and the DOS \* Elevate and streamline the U.S. foreign assistance apparatus to improve policy and program coherence and coordination \* Reform Congressional involvement and oversight, including revamping the Foreign Assistance Act (FAA) \* Integrate civilian and military instruments to deal with weak and fragile states \* Rebalance authorities for certain foreign assistance activities currently under the DOD to civilian agencies \* Strengthen U.S. support for international organizations and other tools of international cooperation While these reports focus on various tactics to achieve these steps, there is a broad consensus that we need to go beyond the institutional stovepipes of the past and revitalize and rebuild the civilian components of our national secu-rity toolbox.

**US hegemony is vital to preventing every major impact.  Decline will trigger a catastrophic collapse of the global order.  History is on our side.**

Thayer 2006 [Professor of Defense and Strategic Studies @ Missouri State University [Thayer, Bradley A., "In Defense of Primacy.," National Interest; Nov/Dec2006 Issue 86, p32-37]

U.S. primacy--and the bandwagoning effect**--**has also given us extensive influence in international politics**,** allowing the United States to shape the behavior of states and international institutions**.** Such influence comes in many forms, one of which is America's ability to create coalitions of like-minded states to free Kosovo, stabilize Afghanistan, invade Iraq or to stop proliferation through the Proliferation Security Initiative (PSI). Doing so allows the United States to operate with allies outside of the UN, where it can be stymied by opponents. American-led wars in Kosovo, Afghanistan and Iraq stand in contrast to the UN's inability to save the people of Darfur or even to conduct any military campaign to realize the goals of its charter. The quiet effectiveness of the PSIin dismantling Libya's WMD programs and unraveling the A. Q. Khan proliferation network are in sharp relief to the typically toothless attempts by the UN to halt proliferation. You can count with one hand countries opposed to the United States. They are the "Gang of Five": China, Cuba, Iran, North Korea and Venezuela. Of course, countries like India, for example, do not agree with all policy choices made by the United States, such as toward Iran, but New Delhi is friendly to Washington. Only the "Gang of Five" may be expected to consistently resist the agenda and actions of the United States. China is clearly the most important of these states because it is a rising great power. But even Beijing is intimidated by the United States and refrains from openly challenging U.S. power. China proclaims that it will, if necessary, resort to other mechanisms of challenging the United States, including asymmetric strategies such as targeting communication and intelligence satellites upon which the United States depends. But China may not be confident those strategies would work, and so it is likely to refrain from testing the United States directly for the foreseeable future because China's power benefits, as we shall see, from the international order U.S. primacy creates. The other states are far weaker than China. For three of the "Gang of Five" cases--Venezuela, Iran, Cuba--it is an anti-U.S. regime that is the source of the problem; the country itself is not intrinsically anti-American. Indeed, a change of regime in Caracas, Tehran or Havana could very well reorient relations. Throughout History, peace and stability have been great benefits of an era where there was a dominant power--Rome, Britain or the United States today. Scholars and statesmen have long recognized the irenic effect of power on the anarchic world of international politics**.** Everything we think of when we consider the current international order--free trade, a robust monetary regime, increasing respect for human rights, growing democratization--is directly linked to U.S. power**.** Retrenchment proponents seem to think that the current system can be maintained without the current amount of U.S. power behind it. In that they are dead wrong and need to be reminded of one of history's most significant lessons: Appalling things happen when international orders collapse. The Dark Ages followed Rome's collapse. Hitler succeeded the order established at Versailles. Without U.S. power, the liberal order created by the United States will end just as assuredly. As country and western great Ral Donner sang: "You don't know what you've got (until you lose it)." Consequently, it is important to note what those good things are. In addition to ensuring the security of the United States and its allies, American primacy within the international system causes many positive outcomes for Washington and the world. The first has been a more peaceful world. During the Cold War**,** U.S. leadership reducedfriction among many statesthat were historical antagonists, most notably France and West Germany. Today, American primacy helps keep a number of complicated relationships aligned--between Greece and Turkey, Israel and Egypt, South Korea and Japan, India and Pakistan, Indonesia and Australia**.** This is not to say it fulfills Woodrow Wilson's vision of ending all war. Wars still occur where Washington's interests are not seriously threatened, such as in Darfur, but a Pax Americana does reduce war's likelihood**,** particularly war's worst form: great power wars. Second, American power gives the United States the ability to spread democracy and other elements of its ideology of liberalism: Doing so is a source of much good for the countries concerned as well as the United States because, as John Owen noted on these pages in the Spring 2006 issue, liberal democracies are more likely to align with the United States and be sympathetic to the American worldview.( n3) So, spreading democracy helps maintain U.S. primacy. In addition, once states are governed democratically, the likelihood of any type of conflict is significantly reduced. This is not because democracies do not have clashing interests. Indeed they do. Rather, it is because they are more open, more transparent and more likely to want to resolve things amicably in concurrence with U.S. leadership. And so, in general, democratic states are good for their citizens as well as for advancing the interests of the United States. Critics have faulted the Bush Administration for attempting to spread democracy in the Middle East, labeling such aft effort a modern form of tilting at windmills. It is the obligation of Bush's critics to explain why :democracy is good enough for Western states but not for the rest, and, one gathers from the argument, should not even be attempted. Of course, whether democracy in the Middle East will have a peaceful or stabilizing influence on America's interests in the short run is open to question. Perhaps democratic Arab states would be more opposed to Israel, but nonetheless, their people would be better off. The United States has brought democracy to Afghanistan, where 8.5 million Afghans, 40 percent of them women, voted in a critical October 2004 election, even though remnant Taliban forces threatened them. The first free elections were held in Iraq in January 2005. It was the military power of the United States that put Iraq on the path to democracy. Washington fostered democratic governments in Europe, Latin America, Asia and the Caucasus. Now even the Middle East is increasingly democratic. They may not yet look like Western-style democracies, but democratic progress has been made in Algeria, Morocco, Lebanon, Iraq, Kuwait, the Palestinian Authority and Egypt. By all accounts, the march of democracy has been impressive. Third, along with the growth in the number of democratic states around the world has been the growth of the global economy. With its allies, the United States has labored to create an economically liberal worldwide network characterized by free trade and commerce, respect for international property rights, and mobility of capital and labor markets. The economic stability and prosperity that stems from this economic order is a global public good from which all states benefit, particularly the poorest states in the Third World. The United States created this network not out of altruism but for the benefit and the economic well-being of America. This economic order forces American industries to be competitive, maximizes efficiencies and growth, and benefits defense as well because the size of the economy makes the defense burden manageable. Economic spin-offs foster the development of military technology, helping to ensure military prowess. Perhaps the greatest testament to the benefits of the economic network comes from Deepak Lal, a former Indian foreign service diplomat and researcher at the World Bank, who started his career confident in the socialist ideology of post-independence India. Abandoning the positions of his youth, Lal now recognizes that the only way to bring relief to desperately poor countries of the Third World is through the adoption of free market economic policies and globalization, which are facilitated through American primacy.( n4) As a witness to the failed alternative economic systems, Lal is one of the strongest academic proponents of American primacy due to the economic

# Extensions:

## Inherency –

**The squo reforms are a joke, nothing about the actual authorization of surveillance has changed. AFF is the only way to change surveillance.**

Cyrus **Farivar**, writer for Arstechnica, “Even former NSA chief thinks USA Freedom Act was a pointless change “And this is it after two years? Cool!”” - Jun 17, **2015** http://arstechnica.com/tech-policy/2015/06/even-former-nsa-chief-thinks-usa-freedom-act-was-a-pointless-change/

The former director of the National Security Agency isn’t particularly concerned about the loss of the government’s bulk metadata collection under Section 215 of the Patriot Act. As Gen. Michael Hayden pointed out in an interview at a Wall Street Journal conference on Monday, the only change that has happened is that data has moved to being held by phone companies, and the government can get it under a court order. Hayden said: If somebody would come up to me and say, “Look, Hayden, here’s the thing: This Snowden thing is going to be a nightmare for you guys for about two years. And when we get all done with it, what you’re going to be required to do is that little 215 program about American telephony metadata—and by the way, you can still have access to it, but you got to go to the court and get access to it from the companies, rather than keep it to yourself”—I go: “And this is it after two years? Cool!” The NSA and the intelligence community as a whole still have many other technical and legal tools at their disposal, including the little-understood Executive Order 12333, among others. That document, known in government circles as "twelve triple three," gives incredible leeway to intelligence agencies sweeping up vast quantities of Americans' data. That data ranges from e-mail content to Facebook messages, from Skype chats to practically anything that passes over the Internet on an incidental basis. In other words, EO 12333 protects the tangential collection of Americans' data even when Americans aren't specifically targeted—otherwise it would be forbidden under the Foreign Intelligence Surveillance Act (FISA) of 1978.

**Status quo FISA reform has done absolutely nothing, the courts refuse to even use the amicus council option. The AFF is key.**

**Dustin Volz, National Journal June 19, 2015** “SECRETIVE SURVEILLANCE COURT SKIPS TALKING TO PRIVACY ADVOCATES” http://www.nextgov.com/cybersecurity/2015/06/secretive-surveillance-court-skips-talking-privacy-advocates/115864/

The secretive court that oversees U.S. spying programs selected to not consult a panel of privacy advocates in its first decision made since the enactment earlier this month of major surveillance reform, according to an opinion declassified Friday. The Foreign Intelligence Surveillance Court opted to forgo appointing a so-called "amicus" of privacy advocates as it considered whether the USA Freedom Act could reinstate spying provisions of the Patriot Act even though they expired on June 1 amid an impasse in the Senate. The Court ruled that the Freedom Act's language—which will restore the National Security Agency's bulk collection of U.S. call data for six months before transitioning to a more limited program—could revive those lapsed provisions, but in assessing that narrow legal question, Judge Dennis Saylor concluded that the Court did not first need confer with a privacy panel as proscribed under the reform law. "The statute provides some limited guidance, in that it clearly contemplates that there will be circumstances where an amicus curiae is unnecessary (that is, 'not appropriate')," Saylor wrote. "At a minimum, it seems likely that those circumstances would include situations where the court concludes that it does not need the assistance or advice of amicus curiae because the legal question is relatively simple, or is capable of only a single reasonable or rational outcome." Saylor reasoned that in decisions where the "outcome is sufficiently clear" and that reasonable jurists would agree, the appointment of privacy panel is not required by the Freedom Act. "This is such an instance," Saylor concluded. But some privacy advocates were rankled by the Court's reasoning, and suggested Saylor was too relaxed in his discussion regarding when privacy experts should be called on to weigh in on a decision. "Propriety in the spirit of the USA Freedom Act is when the decision at hand were to have an impact on the rights of individuals, not necessarily when the Court conjectures that a decision is self-evident," said Amie Stepanovich, U.S. policy manager at Access, an international digital-rights organization. "It is the job of the amicus to raise issues that may not be readily apparent on first blush, meaning that what first may appear to be a clear-cut decision actually raises underlying questions. The Court must respect the presumption of the statute in favor of appointing the amicus." Many civil-liberties organizations that supported the Freedom Act view its creation of a privacy panel as one of the law's strongest and most important provisions. The FISA Court has long been derided as a "rubber-stamp" for government surveillance orders—a criticism that has only grown more pronounced in the two years since the Edward Snowden revelations began. Friday's declassified opinion did not restore the NSA's controversial phone dragnet, but it set the stage for the Court to do so. The Freedom Act will effectively end the mass-surveillance protocol, first exposed publicly by Snowden, but only after a six-month transition period during which the NSA prepares to switch to a more limited program. Under the new system, the NSA will be able to collect call metadata from phone companies only on an as-needed, generally targeted basis after obtaining approval from the FISA Court. The decision notes that the Justice Department applied for a new surveillance order on June 11 but "factual details of the applications are classified, and not necessary to resolve the issue addressed in this opinion."

## Solvency –

**And, Declassification and representation for civil liberties are essential to escaping the status quo**

“Appointing Democratic Judges to the FISA Court Won’t Solve Its Structural Flaws” By Elizabeth **Goitein** Thursday, April 16, **2015** at 9:18 AM http://justsecurity.org/22085/fisa-court-judges-problematic-judicial-review/

Chief Justice Roberts recently named two new judges to the Foreign Intelligence Surveillance Court (FISC) — Judge James P. Jones from the Western District of Virginia and Judge Thomas B. Russell from the Western District of Kentucky. Roberts has now appointed three judges to the FISC since the Snowden revelations, and all three were originally nominated to the bench by a Democratic president (Clinton). This marks a stark departure from Roberts’ thirteen pre-Snowden appointments, eleven of whom were appointed by Republican presidents. The question naturally arises: does this change in composition herald a change in the FISC’s approach? Roberts’ track record of selecting Republican-appointed judges came under fire when Snowden’s disclosures trained a public lens on the FISC’s operations. Critics argued that conservative judges would be more likely to support government requests to conduct surveillance, and less solicitous of the civil liberties implications, than their progressive counterparts. Among the legislative proposals to reform NSA surveillance were measures to revamp the FISC, including changing the appointment process to guard against ideological bias. Ideological diversity is a good idea on any court. (Full disclosure: I don’t know enough about either Jones’ or Russell’s rulings to say whether their appointment will affect the court’s ideological balance, particularly since one of the FISC judges being replaced — Mary A. McLaughlin — is herself a Clinton appointee.) But as Steve Aftergood pointed out, there’s no evidence that the ideological makeup of the FISC has influenced its rulings. To the contrary: the FISC’s rate of approving government applications to conduct surveillance has always “hovered near 100%” (Aftergood’s words) — before and after Roberts’ streak of appointing conservatives. To be sure, there are applications and there are applications. A request to target a named individual based on a showing of probable cause (for communications content) or relevance (for business records) — which is what the FISC generally was reviewing in the pre-Roberts era — is very different from a request to collect Americans’ phone records in bulk on the ground that relevant records may be buried within them. The FISC judge who first endorsed this strained theory of “relevance” to justify the bulk collection of phone records in 2006 was appointed by a Republican president, as were eight of the other ten judges on the court at that time. On the other hand, that decision was based on a 2004 FISC order justifying the bulk collection of Internet metadata that was issued by a Clinton appointee. Why the bipartisan acquiescence to a legal theory that may charitably be described as far-fetched? Most judges, regardless of their ideology, are happy to defer to the executive branch in matters of national security, whether by declining to exercise jurisdiction at all or by refusing to probe factual claims. There’s a stark division of opinion on whether this is a good thing, but little dispute over the fact itself. Of course, there have always been exceptions — cases in which judges have refused to bow to executive claims of superior expertise and constitutional authority. Anecdotally, such pushback appears to have become more common among regular federal judges since the Snowden disclosures. It’s too soon, though, to say whether this phenomenon signals a broader change in judicial philosophy and, if so, whether it will last. In any case, there’s another reason why FISC judges, regardless of ideology, are likely to rule in the government’s favor. Because no opposing party is present, FISC judges who rule against government applications are not occupying the familiar role of a neutral adjudicator in a contest between adversaries. Instead, they have effectively become the government’s adversary — or, at least, they may create that perception. Especially in the national security context, few judges are eager to shoulder that role. Hence the iterative back-and-forth described by FISC judges and government officials, in which FISC staff work with Justice Department lawyers to craft an application that the FISC feels it can approve. The FISC is not a “rubber stamp,” as some have suggested, but it clearly sees its job as working in partnership with the executive branch to get to “yes.” Needless to say, that’s not the role courts are supposed to serve under our constitutional system of checks and balances. The pro-government rulings that result from these dynamics tend to perpetuate themselves. Once a FISC judge has approved a new program or a new type of surveillance, that ruling becomes the only direct precedent on which the other FISC judges may rely. There is no developed body of controlling case law, as there would be in regular federal courts, and no system to resolve differences through ascending levels of appeal. In such circumstances, the natural tendency to rely on the only available precedent would be difficult to overcome. Finally, even if all eleven FISC judges were determined to resolve any doubt or ambiguity against the government, the law that authorizes the most intrusive NSA surveillance ties their hands. Under Section 702 of the FISA Amendments Act, which authorizes programmatic surveillance of communications between foreign targets and US persons, the court is not allowed to probe the government’s certification of a foreign intelligence purpose, and it has no role in approving the selection of individual targets. Its only substantive job is to approve agency procedures for determining whether a target is “reasonably believed” to be a foreigner overseas, as well as agency procedures for “minimizing” the retention and dissemination of US person information. To be clear, less deferential rulings on these procedures would be a major step forward. After all, when the FISC approved the NSA’s 2011 minimization procedures, it approved “back door searches” — in which the government, having certified (as the law requires) that it has no interest in particular, known US persons, runs searches against the data it has collected using the phone numbers and e-mail addresses of particular, known US persons. A more searching judicial review also might balk at the provision of the NSA’s targeting procedures that equates the absence of any information about a person’s nationality or location with a “reasonable belief” that the person is a foreigner overseas. The fact remains that the legal framework is stacked against meaningful judicial review, relegating the FISC to the role of approving general procedures that leave a great deal of discretion to the executive branch rather than applying the law to the specific facts of a particular case. Indeed, the FISC’s role is watered down to the point that it’s not clear whether the court’s operations even square with the requirements of Article III. (That’s the subject of a report I wrote with Faiza Patel, which we’ve also discussed on this blog and on Lawfare.) In short, a pro-government tilt in FISC proceedings is almost inevitable in light of the deference courts show in national security matters, the lack of an opposing party or an established body of precedent, and the constraints of the governing statute. The political leanings of the court’s judges aren’t the cause of these problems, and adjusting them will not be the solution.

**A specialty advocate would be effective in creating space for challenges to surveillance measures and allowing for more appellate review.**

Marty **Lederman** **and** Steve **Vladeck** The Constitutionality of a FISA “Special Advocate” Monday, November 4, **2013** http://justsecurity.org/2873/fisa-special-advocate-constitution/

The Privacy and Civil Liberties Oversight Board (PCLOB) is holding a day-long hearing today on possible reforms to the NSA’s surveillance activities—especially those conducted pursuant to section 215 of the USA PATRIOT Act and section 702 of the Foreign Intelligence Surveillance Act (FISA). The discussion likely will focus on the legal and policy wisdom of various of the competing reform proposals (which Lawfare summarized here), one of the common themes of which is the authorization of a “special advocate,” i.e., a security-cleared lawyer who could present adversarial briefing and argument before the FISA Court (FISC) in at least some cases (such as those raising significant legal questions). A new Congressional Research Service report raises some constitutional questions about such a reform. As we explain in the post that follows, however, most of those questions are insubstantial or inapposite—or at the very least can be avoided by using appropriate statutory language. On the other hand, one of those questions is substantial—namely, whether the special advocate would have the constitutional authority to appeal a FISC ruling. Even so, it is not clear such an authority would be necessary in order to ensure more frequent appellate review in appropriate cases. Accordingly, whatever one thinks of the merits of a special advocate as a policy matter, we don’t believe there is any fundamental constitutional impediment to legislation that would authorize a role for such an advocate. I. Would the Special Advocate be an “Officer of the United States” Subject to the Appointments Clause? The CRS Report begins with an extended analysis of purported Appointments Clause issues surrounding the special advocate, including whether she would be a “principal” officer (who could therefore only be appointed by the President with the advice and consent of the Senate), or an “inferior” officer (who could be appointed by the President, by the head of a Department or by a court). The CRS Report appears to assume that the special advocate would not be appointed in a manner allowed under the Appointments Clause. That assumption may well be mistaken, depending on the bill in question. More fundamentally, however, the CRS Report’s analysis depends upon a fundamental, mistaken assumption that the special advocate would be an officer of the United States in the first place. But she would not. For one thing, the advocate would not necessarily be someone appointed to a position of employment within the federal government—she could instead be someone assigned on a case-by-case basis to file briefs before the FISC, or a federal contractor, in which case she would not be an “officer” subject to the Appointments Clause. (See subsections II-B-1-a and II-B-1-c of this OLC memo.) In any event, even if the legislation provided that the advocate were to be appointed to a position of employment in the federal government, she would not exercise significant government authority pursuant to federal law, and thus would not be an officer for Appointments Clause purposes. (See subsection I-B-1-b of that 1996 OLC memo.) The role of the advocate would be solely to present legal arguments to the FISC, as an attorney does when appointed as an amicus by the Supreme Court to represent an undefended position in a case before the Court. (See Marty’s discussion of the Court’s practice.) Nothing the advocate would do would have any binding effect upon any entity. (And even if the particular legislation in question provided that the special counsel was to be a “representative” of third parties affected by the proposed order (such as the U.S. persons whose metadata were collected under section 215, or the U.S. persons whose communications are collected in a section 702 surveillance), that would not give the special advocate the power to exercise significant governmental authority.) The CRS Report reaches the contrary conclusion by referring to the Supreme Court’s holding in Buckley v. Valeo that Federal Election Commissioners were officers, in part because they were assigned the authority to bring suit against private parties, on behalf of the federal government, to compel compliance with federal election laws. See 424 U.S. at 138. But the special advocate would have no such authority. She would not be empowered to commence a lawsuit to compel compliance with federal law, let alone to do so on behalf of the government; instead, she would merely be allowed to participate as an attorney in cases already filed in the FISC by the government itself. Accordingly, legislation providing for a special advocate would not raise any Appointments Clause issue. II. Article III Adverseness and the FISA Court The heart of the CRS Report curiously focuses on an issue that is not really related to the question of whether a special advocate would be constitutional—namely, whether the FISC process itself complies with Article III. Article III’s limitation of the federal judicial function to “Cases” or “Controversies” generally requires that federal courts adjudicate only concrete disputes between parties with adverse interests. FISC proceedings, of course, are almost always ex parte and nonadversarial—they consist, in essence, of an Article III judge determining ex ante whether a proposed executive branch operation would be lawful. That’s not the sort of thing Article III courts are generally empowered to do. The CRS Report is therefore correct that this basic characteristic of FISA raises a significant constitutional question. Indeed, in testimony before Congress in connection with consideration of the original FISA, future circuit (and FISA Court of Review) judge Laurence Silberman argued that the ex parte nature of FISA proceedings was inconsistent with Article III. OLC Assistant Attorney General John Harmon opined to the contrary in those hearings, noting that the FISA approval process was in many respects analogous to the traditional function of courts adjudicating the lawfulness of proposed search warrants—an historical exception to the requirement of adversary proceedings for Article III courts, premised on the theory that such warrant proceedings are ancillary to possible future criminal (or civil) proceedings in Article III courts in which the validity of the warrant might be subject to full adversarial scrutiny. Lower courts subsequently agreed with OLC that the FISA process did not transgress Article III. To be sure, more recent amendments to FISA have placed considerable pressure on the warrant analogy that supported the Harmon OLC analysis. Unlike in the original FISA, for example, production orders under section 215 and certifications under section 702 don’t so closely resemble traditional warrants, and are far less likely to be subject to subsequent adversarial challenge. They thus raise a more difficult Article III adverseness question. (The ACLU’s original litigation challenging Section 702 raised that question directly—see pages 49-51 of this brief—but it was left unresolved when the Court held in Clapper that the ACLU lacked standing.) On the other hand, both authorities include express authorizations for the recipient (of 215 orders or 702 directives) to contest cases initiated by the government—thus, perhaps, providing for the requisite Article III adverseness in the event the warrant analogy is unavailing. But regardless of the ultimate merits of this Article III question, the important point for present purposes is that the creation of a special advocate could hardly be said to raise it. Indeed, we’re hard-pressed to see why the additional participation of another lawyer, in order to present to the court a position adverse to the government, would exacerbate any Article III concerns about the lack of adverseness. To the contrary. The CRS Report also questions the “standing” of the special advocate to participate before the FISA Court, but this, too, is a red herring. The “case” in question is initiated by the government. If the legislation is properly drafted, the “special advocate” would be merely a lawyer, not a party to the case—or, perhaps, the attorney for third parties whose metadata or communications are at issue. Accordingly, so long as the proceeding before the FISA Court already satisfies Article III, then the statutory inclusion of an additional lawyer should raise no new Article III concerns. III. Constitutional Standing to Appeal The CRS Report does identify one genuinely significant constitutional question—namely, whether a special advocate would have Article III standing to appeal a FISC decision to the FISA Court of Review (and ultimately to the Supreme Court). As the Supreme Court held in the Proposition 8 case this June, a party seeking to appeal a judgment must have a direct and personal stake in the outcome of the appeal. If the special advocate would not be a party to the case, or even an attorney representing a party who might be adversely affected by a FISC order, it is doubtful she would have standing to appeal such an order. But although the CRS Report suggests this concern may be fatal, it fails to consider other potential mechanisms for ensuring more frequent appellate review. Perhaps, for instance, the legislation could provide that the special advocate would be a representative of affected but absent third parties (such as the U.S. persons whose metadata were collected under section 215, or the U.S. persons whose communications are collected in a section 702 surveillance), akin to a guardian ad litem. Or perhaps the legislation might require FISA Court of Review confirmation of a FISC judge’s ruling as a condition for the government to proceed with proposed surveillance or collection in certain cases raising novel and important questions of law. Alternatively, in the section 215 and similar contexts, perhaps the legislation could create greater incentives for the recipient of orders (e.g., the service providers) to appeal in cases where the special advocate has appeared and would be able to bear the burden of briefing and argument on appeal. Crafting one or more such provisions is the most serious constitutional challenge for proponents of a special advocate; but, in contrast to the CRS Report, we are not convinced that it is necessarily an insurmountable challenge. And, more importantly for present purposes, this challenge does not change the fact that there are no substantial constitutional difficulties in authorizing participation of a special advocate before the FISC itself. In sum, reasonable minds may differ as to whether Congress should authorize a role for a special advocate. And certainly such a proposal would raise considerable practical concerns that would necessarily shape the specifics of any legislation (see, e.g., David Kris’s discussion at pages 36-41 of his paper on section 215.) But as long as Congress provides that such an advocate would be merely another lawyer participating in proceedings before the FISA Court and FISA Court of Review (either as an amicus or as a representative of third parties), such a reform should not raise any new constitutional concerns, at least so long as the advocate is not afforded a statutory right on her own behalf to appeal FISC decisions.

**Privacy advocates would be able to review, appeal, participate in, and effectuate transparency for all proceedings within the FISA courts.**

Gregory T. **Nojeim** “FISA court advocate helpful, but no replacement for ending mass surveillance” November 1, **2013** http://blog.constitutioncenter.org/2013/11/fisa-court-advocate-helpful-but-no-replacement-for-ending-mass-surveillance/

Revelations regarding the scope of NSA surveillance suggest a failure of oversight mechanisms designed to prevent improper surveillance. Members of Congress have introduced legislation to remedy that failure in part by creating an office that would advocate for privacy in proceedings before the Foreign Intelligence Surveillance Act (FISA) Court. This is would be a positive development, but by no means would it ensure privacy protections for innocent citizens. The FISA Court was designed to provide independent oversight and prevent improper invasions of privacy, just as the warrant requirement for police searches does, while at the same time meeting the needs of expediency and secrecy that are unique to foreign intelligence investigations. However, the Court’s activity in recent years has raised concerns. The Electronic Privacy Information Center compiled a report concluding that the FISA Court rejected only two of 8,591 FISA applications it received between 2008 and 2012. This has lead some commentators such as Glenn Greenwald and Ezra Klein to say that it provides ineffective oversight and acts as a mere “rubber stamp” for surveillance. The FISA Court has fought back, stating in a letter to Senator Charles Grassley (R-Iowa) that substantive changes were made to 24.4 percent of government requests between July and September of this years as a result of FISA Court review, however the specific nature of these changes and the orders they affected was not disclosed. Whatever the truth, several factors erode trust in the FISA Court, the foremost being that it operates secretly and issues important decisions in a one-sided process in which only the government is represented. This inhibits the Court from giving adequate consideration to arguments against surveillance, and leaves the government free to make flawed or unsubstantiated assertions without fear of rebuttal. One-sided FISA Court proceedings has led to the development of an unnatural collaborative relationship between clerks of the court and the Department of Justice lawyers who submit surveillance applications to the FISA Court. In response to this problem, Senator Richard Blumenthal (D-CT) introduced legislation, S.1467, to create an independent Special Advocate within the Executive Branch who would “vigorously [advocate] before the FISA Court or the FISA Court of Review … in support of legal interpretations that minimize the scope of surveillance and the extent of data collection and retention.” The Special Advocate would review every application to the FISA Court, and could ask to participate in any FISA Court proceeding, although the FISA Court has the authority to deny such requests. The Special Advocate could also request that outside parties be granted the ability to file amicus curiae briefs with the Court, or participate in oral arguments. The Special Advocate could also appeal FISA Court decisions – including requests to participate and substantive decisions regarding surveillance applications – to the FISA Court of Review and the Supreme Court. Finally, the Special Advocate could petition for public disclosure of decisions and other relevant documents held by the FISA Court. Picking up on this idea, Senator Ron Wyden (D-OR) included a “Constitutional Advocate” in his FISA reform bill, the Intelligence Oversight and Surveillance Reform Act (S. 1551) and Senator Patrick Leahy (D-VT) and Representative James Sensenbrenner (R-WI) included a similar provision in their USA Freedom Act, which was introduced on October 29. Several improvements could strengthen the “Special Advocate” legislation. First, advocating protection of privacy and civil liberties should be added to the duties of the Office of the Special Advocate. While the current charge to advocate for minimizing the scope of data collection is helpful, sometimes consideration of broader civil liberties interests is appropriate. In addition, the Privacy and Civil Liberties Oversight Board should choose the Special Advocate, rather than selecting a slate of candidates from which the Chief Judge of the FISA Court would choose, as is suggested in the Blumenthal bill. Finally, the Special Advocate, not the FISA Court, should decide in which cases the Special advocate would have a voice. Otherwise, he or she could be barred from participating in most proceedings. Inserting a Special Advocate in FISA Court proceedings – particularly one charged with making those proceedings more transparent – would go some distance toward restoring trust in intelligence surveillance. But, it is no substitute for clearer, more restrictive rules about the information that can be collected for intelligence purposes, particularly when that information pertains to Americans. In other words, having a Special Advocate is no panacea; it is far more important that Congress act to end the bulk collection of metadata about communications.

## Impacts –

**AND, nuclear war destroys the environment and causes human extinction**

(Dr. Allen **Phillips**, **2000**, Peace Activist, Nuclear Winter Revisited, October, <http://www.peace.ca/nuclearwinterrevisited.htm>)

The 1980's research showed that the dust and the smoke would block out a large fraction of the sunlight and the sun's heat from the earth's surface, so it would be dark and cold like an arctic winter. It would
take months for the sunlight to get back to near normal. The cloud of dust and smoke would circle the northern hemisphere quickly. Soon it could affect the tropics, and cold would bring absolute disaster for all crops there. Quite likely it would cross the equator and affect the southern hemisphere to a smaller degree. While the temperature at the surface would be low, the temperature of the upper part of the troposphere (5-11 km) would rise because of sunlight absorbed by the smoke, so there would be an absolutely massive temperature inversion. That would keep many other products of combustion down at the levels people breathe, making a smog such as has never been seen before. PYROTOXINS is a word coined for all the noxious vapours that would be formed by combustion of the plastics, rubber, petroleum, and other products of civilization. It is certain that these poisons would be formed, but we do not have quantitative estimates. The amount of combustible material is enormous, and it would produce dioxins, furans, PCB's, cyanides, sulphuric and sulphurous acids, oxides of nitrogen, carbon monoxide and carbon dioxide in amounts that would make current concerns about atmospheric pollution seem utterly trivial. There would also be toxic chemicals like ammonia and chlorine from damaged storage tanks. Another bad environmental thing that would happen is destruction of the ozone layer. The reduction in the ozone layer could be 50% - 70% over the whole northern hemisphere - very much worse than the current losses
that we are properly concerned about. Nitrogen oxides are major chemical agents for this. They are formed by combination of the oxygen and nitrogen of the air in any big fire and around nuclear explosions, as they are on a smaller scale around lightning flashes. So after the smoke cleared and the sun began to shine again, there would be a large increase of UV reaching the earth's surface. This is bad for people in several ways, but don't worry about the skin cancers ? not many of the survivors would live long enough for that to matter. UV is also bad for many other living things, notably plankton, which are the bottom layer of the whole marine food chain. There would likely be enough UV to cause blindness in many animals. Humans can protect their eyes if they are aware of the danger. Animals do not know to do that, and blind animals do not survive. Blind insects do not pollinate flowers, so there is another reason why human crops and natural food supplies for animals would fail. Altogether, nuclear winter would be an ecological disaster of the same sort of magnitude as the major extinctions of species that have occurred in the past, the most famous one being 65 million years ago at the cretaceous extinction. Of all the species living at the time, about half became extinct. The theory is that a large meteor made a great crater in the Gulf of California, putting a trillion tons of rock debris into the atmosphere. That is a thousand times as much rock as is predicted for a nuclear war, but the soot from fires blocks sunlight more effectively than rock debris. In nuclear winter there would also be radioactive contamination giving worldwide background radiation doses many times larger than has ever happened during the 3 billion years of evolution. The radiation would notably worsen things for existing species, though it might, by increasing mutations, allow quicker evolution of new species (perhaps mainly insects and grasses) that could tolerate the post-war conditions. (I should just mention that there is no way the radioactivity from a nuclear war could destroy "all life on earth". People must stop saying that. There will be plenty of evolution after a war, but it may not include us.)

**Hegemony prevents Extinction**

Thomas P.M. Barnett, chief analyst, Wikistrat, “The New Rules: Leadership Fatigue Puts U.S. and Globalization, at Crossroads,” WORLD POLITICS REVIEW, 3—7—**20**11, www.worldpoliticsreview.com/articles/8099/the-new-rules-leadership-fatigue-puts-u-s-and-globalization-at-crossroads

Events in Libya are a further reminder for Americans that we stand at a crossroads in our continuing evolution as the world's sole full-service superpower. Unfortunately, we are increasingly seeking change without cost, and shirking from risk because we are tired of the responsibility. We don't know who we are anymore, and our president is a big part of that problem. Instead of leading us, he explains to us. Barack Obama would have us believe that he is practicing strategic patience. But many experts and ordinary citizens alike have concluded that he is actually beset by strategic incoherence -- in effect, a man overmatched by the job. It is worth first examining the larger picture: We live in a time of arguably the greatest structural change in the global order yet endured, with this historical moment's most amazing feature being its relative and absolute lack of mass violence. That is something to consider when Americans contemplate military intervention in Libya, because if we do take the step to prevent larger-scale killing by engaging in some killing of our own, we will not be adding to some fantastically imagined global death count stemming from the ongoing "megalomania" and "evil" of American "empire." We'll be engaging in the same sort of system-administering activity that has marked our stunningly successful stewardship of global order since World War II. Let me be more blunt: As the guardian of globalization, the U.S. military has been the greatest force for peace the world has ever known. Had America been removed from the global dynamics that governed the 20th century, the mass murder never would have ended. Indeed, it's entirely conceivable there would now be no identifiable human civilization left, once nuclear weapons entered the killing equation. But the world did not keep sliding down that path of perpetual war**.** Instead, America stepped up and changed everything by ushering in our now-perpetual great-power peace. We introduced the international liberal trade order known as globalization and played loyal Leviathan over its spread. What resulted was the collapse of empires, an explosion of democracy, the persistent spread of human rights, the liberation of women, the doubling of life expectancy, a roughly 10-fold increase in adjusted global GDP and a profound and persistent reduction in battle deaths from state-based conflicts. That is what American "hubris" actually delivered. Please remember that the next time some TV pundit sells you the image of "unbridled" American military power as the cause of global disorder instead of its cure. With self-deprecation bordering on self-loathing, we now imagine a post-American world that is anything but. Just watch who scatters and who steps up as the Facebook revolutions erupt across the Arab world. While we might imagine ourselves the status quo power, we remain the world's most vigorously revisionist force. As for the sheer "evil" that is our military-industrial complex, again, let's examine what the world looked like before that establishment reared its ugly head. The last great period of global structural change was the first half of the 20th century, a period that saw a death toll of about 100 million across two world wars. That comes to an average of 2 million deaths a year in a world of approximately 2 billion souls. Today, with far more comprehensive worldwide reporting, researchers report an average of less than 100,000 battle deaths annually in a world fast approaching 7 billion people. Though admittedly crude, these calculations suggest a 90 percent absolute drop and a 99 percent relative drop in deaths due to war. We are clearly headed for a world order characterized by multipolarity, something the American-birthed system was designed to both encourage and accommodate. But given how things turned out the last time we collectively faced such a fluid structure, we would do well to keep U.S. power, in all of its forms, deeply embedded in the geometry to come. To continue the historical survey, after salvaging Western Europe from its half-century of civil war, the U.S. emerged as the progenitor of a new, far more just form of globalization -- one based on actual free trade rather than colonialism. America then successfully replicated globalization further in East Asia over the second half of the 20th century, setting the stage for the Pacific Century now unfolding.

Democracy is key to solve nuclear war and extinction

 [Larry **Diamond**, Hoover Institution Senior Fellow, **1995** Stanford Univ. Political Science and Sociology professor, former Baghdad CPA senior adviser, "Promoting Democracy in the 1990s," http://wwics.si.edu/subsites/ccpdc/pubs/di/fr.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 democracy, with its provisions for legality, accountability, popular sovereignty, and openness. 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, whoorganize 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.

## Democracy –

Reinvigorating US democratic commitment is critical to prevent multiple scenarios for global destruction

 [Jonathan **Small**, DC Superior Court Law Clerk, J.D., Former Human Services Coalition Americorps VISTA, Spring **2006** “Moving Forward,” The Journal for Civic Commitment, http://www.mc.maricopa.edu/other/engagement/Journal/Issue7/Small.jsp]

What will be the challenges of the new millennium? And how should we equip young people to face these challenges? While we cannot be sure of the exact nature of the challenges, we can say unequivocally that humankind will face them together. If the end of the twentieth century marked the triumph of the capitalists, individualism, and personal responsibility, the new century will present challenges that require collective action, unity, and enlightened self-interest. Confronting global warming, depleted natural resources, global super viruses, global crime syndicates, and multinational corporations with no conscience and no accountability will require cooperation, openness, honesty, compromise, and most of all solidarity – ideals not exactly cultivated in the twentieth century. We can no longer suffer to see life through the tiny lens of our own existence. Never in the history of the world has our collective fate been so intricately interwoven. Our very existence depends upon our ability to adapt to this new paradigm, to envision a more cohesive society. With humankind’s next great challenge comes also great opportunity. Ironically, modern individualism backed us into a corner. We have two choices, work together in solidarity or perish together in alienation. Unlike any other crisis before, the noose is truly around the neck of the whole world at once. Global super viruses will ravage rich and poor alike, developed and developing nations, white and black, woman, man, and child. Global warming and damage to the environment will affect climate change and destroy ecosystems across the globe. Air pollution will force gas masks on our faces, our depleted atmosphere will make a predator of the sun, and chemicals will invade and corrupt our water supplies. Every single day we are presented the opportunity to change our current course, to survive modernity in a manner befitting our better nature. Through zealous cooperation and radical solidarity we can alter the course of human events. Regarding the practical matter of equipping young people to face the challenges of a global, interconnected world, we need to teach cooperation, community, solidarity, balance and tolerance in schools. We need to take a holistic approach to education. Standardized test scores alone will not begin to prepare young people for the world they will inherit. The three staples of traditional education (reading, writing, and arithmetic) need to be supplemented by three cornerstones of a modern education, exposure, exposure, and more exposure. How can we teach solidarity? How can we teach community in the age of rugged individualism? How can we counterbalance crass commercialism and materialism? How can we impart the true meaning of power? These are the educational challenges we face in the new century**.** It will require a radical transformation of our conception of education. We’ll need to trust a bit more, control a bit less, and put our faith in the potential of youth to make sense of their world. In addition to a declaration of the gauntlet set before educators in the twenty-first century, this paper is a proposal and a case study of sorts toward a new paradigm of social justice and civic engagement education. Unfortunately, the current pedagogical climate of public K-12 education does not lend itself well to an exploratory study and trial of holistic education. Consequently, this proposal and case study targets a higher education model. Specifically, we will look at some possibilities for a large community college in an urban setting with a diverse student body. Our guides through this process are specifically identified by the journal Equity and Excellence in Education. The dynamic interplay between ideas of social justice, civic engagement, and service learning in education will be the lantern in the dark cave of uncertainty. As such, a simple and straightforward explanation of the three terms is helpful to direct this inquiry. Before we look at a proposal and case study and the possible consequences contained therein, this paper will draw out a clear understanding of how we should characterize these ubiquitous terms and how their relationship to each other affects our study. Social Justice, Civic Engagement, Service Learning and Other Commie Crap Social justice is often ascribed long, complicated, and convoluted definitions. In fact, one could fill a good-sized library with treatises on this subject alone. Here we do not wish to belabor the issue or argue over fine points. For our purposes, it will suffice to have a general characterization of the term, focusing instead on the dynamics of its interaction with civic engagement and service learning. Social justice refers quite simply to a community vision and a community conscience that values inclusion, fairness, tolerance, and equality. The idea of social justice in America has been around since the Revolution and is intimately linked to the idea of a social contract. The Declaration of Independence is the best example of the prominence of social contract theory in the US. It states quite emphatically that the government has a contract with its citizens, from which we get the famous lines about life, liberty and the pursuit of happiness. Social contract theory and specifically the Declaration of Independence are concrete expressions of the spirit of social justice. Similar clamor has been made over the appropriate definitions of civic engagement and service learning, respectively. Once again, let’s not get bogged down on subtleties. Civic engagement is a measure or degree of the interest and/or involvement an individual and a community demonstrate around community issues. There is a longstanding dispute over how to properly quantify civic engagement. Some will say that today’s youth are less involved politically and hence demonstrate a lower degree of civic engagement. Others cite high volunteer rates among the youth and claim it demonstrates a high exhibition of civic engagement. And there are about a hundred other theories put forward on the subject of civic engagement and today’s youth. But one thing is for sure; today’s youth no longer see government and politics as an effective or valuable tool for affecting positive change in the world. Instead of criticizing this judgment, perhaps we should come to sympathize and even admire it. Author Kurt Vonnegut said, “There is a tragic flaw in our precious Constitution, and I don’t know what can be done to fix it. This is it: only nut cases want to be president.” Maybe the youth’s rejection of American politics isn’t a shortcoming but rather a rational and appropriate response to their experience. Consequently, the term civic engagement takes on new meaning for us today. In order to foster fundamental change on the systemic level, which we have already said is necessary for our survival in the twenty-first century, we need to fundamentally change our systems. Therefore, part of our challenge becomes convincing the youth that these systems, and by systems we mean government and commerce, have the potential for positive change. Civic engagement consequently takes on a more specific and political meaning in this context. Service learning is a methodology and a tool for teaching social justice, encouraging civic engagement, and deepening practical understanding of a subject. Since it is a relatively new field, at least in the structured sense, service learning is only beginning to define itself. Through service learning students learn by experiencing things firsthand and by exposing themselves to new points of view. Instead of merely reading about government, for instance, a student might experience it by working in a legislative office. Rather than just studying global warming out of a textbook, a student might volunteer time at an environmental group. If service learning develops and evolves into a discipline with the honest goal of making better citizens, teaching social justice, encouraging civic engagement, and most importantly, exposing students to different and alternative experiences, it could be a major feature of a modern education. Service learning is the natural counterbalance to our current overemphasis on standardized testing. Social justice, civic engagement, and service learning are caught in a symbiotic cycle. The more we have of one of them; the more we have of all of them. However, until we get momentum behind them, we are stalled. Service learning may be our best chance to jumpstart our democracy. In the rest of this paper, we will look at the beginning stages of a project that seeks to do just that.

Further, reinvigoration of US democracy is critical to global democracy

**Fukuyama**, John hopkins International Studies School International Political Economy Professor and International Development Program Director, and McFaul, Hoover Senior Fellow, Stanford Political Science Professor and Center on Democracy Director, **2008** [Francis, Michael, "Should Democracy Be Promoted or Demoted," http://www.twq.com/08winter/docs/08winter\_fukuyama.pdf]

Inspiration for democrats struggling against autocracy and a model for lead- ers in new democracies are two U.S. exports now in short supply. Since the beginning of the republic, the U.S. experiment with democracy has provided hope, ideas, and technologies for others working to build democratic insti- tutions**.** Foreign visitors to the United States have been impressed by what they have seen, and U.S. diplomats**,** religious missionaries, and businesspeo- ple traveling abroad have inspired others by telling the story of U.S. democ- racy.In the second half of the twentieth century, during which the United States developed more intentional means for promoting democracy abroad, the preservation and advertisement of the U.S. democratic model remained a core instrument.

**Democracy creates world stability**

 [Mark P**. Lagon** =Adjunct Senior Fellow for Human Rights at the council for forging relations, “Promoting Democracy: The Whys and Hows for the United States and the International Community”, February **2011** http://www.cfr.org/democratization/promoting-democracy-whys-hows-united-states-international-community/p24090]

Furthering democracy is often dismissed as moralism distinct from U.S. interests or mere lip service to build support for strategic policies. Yet there are tangible stakes for the United States and indeed the world in the spread of democracy—namely, greater peace, prosperity, and pluralism. Controversial means for promoting democracy and frequent mismatches between deeds and words have clouded appreciation of this truth. Democracies often have conflicting priorities, and democracy promotion is not a panacea. Yet one of the few truly robust findings in international relations is that established democracies never go to war with one another. Foreign policy “realists” advocate working with other governments on the basis of interests, irrespective of character, and suggest that this approach best preserves stability in the world. However, durable stability flows from a domestic politics built on consensus and peaceful competition, which more often than not promotes similar international conduct for governments. There has long been controversy about whether democracy enhances economic development. The dramatic growth of China certainly challenges this notion. Still, history will likely show that democracy yields the most prosperity. Notwithstanding the global financial turbulence of the past three years, democracy’s elements facilitate long-term economic growth. These elements include above all freedom of expression and learning to promote innovation, and rule of law to foster predictability for investors and stop corruption from stunting growth. It is for that reason that the UN Development Programme (UNDP) and the 2002 UN Financing for Development Conference in Monterey, Mexico, embraced good governance as the enabler of development. These elements have unleashed new emerging powers such as India and Brazil and raised the quality of life for impoverished peoples. Those who argue that economic development will eventually yield political freedoms may be reversing the order of influences—or at least discounting the reciprocal relationship between political and economic liberalization. Finally, democracy affords all groups equal access to justice—and equal opportunity to shine as assets in a country’s economy. Democracy’s support for pluralism prevents human assets—including religious and ethnic minorities, women, and migrants—from being squandered. Indeed, a shortage of economic opportunities and outlets for grievances has contributed significantly to the ongoing upheaval in the Middle East. Pluralism is also precisely what is needed to stop violent extremism from wreaking havoc on the world.

## Hegemony is beautiful–

**Secrecy and the inevitable loss of that secrecy create a challenge to U.S. Hegemony, exposes contradictions and espionage.**

Global Times 7/3/**2013** (Global times, “Snowden’s fate a sign of US hegemony,” 7/3/13, http://www.globaltimes.cn/content/793371.shtml#.UeSoW42siSo)

Edward Snowden, a whistle-blower from the US National Security Agency, applied to 21 countries for political asylum on July 1, but encountered negative responses. Snowden withdrew his Russia asylum bid after Russian President Vladimir Putin dictated terms for his stay**.** The fate of the whistleblower has become a symbol testing US hegemony**.** Snowden's exposure has discredited the US. His latest revelations that the US has been spying on the EU mission in New York and its embassy in Washington have caused explosive consequences and strong reactions fromEU members likeFrance and Germany.These immoral actions will further deprive the US of its power to mess with world affairs under the guise of moral values.Snowden has exposed US hypocrisy, its random violations of citizens' privacy and arrogant cyber espionage in other countries. US soft power has failed to prevent these negative influences spreading across the world.Non-US media refrained from launching harsh criticism against the US, but the storm caused by Snowden's leaks has made the global public well aware of what's going on. ¶ Snowden's latest step has displayed US hegemony to the world.He submitted 21 applications for political asylum, then the US projected its power - the countries involved either cowered or delayed for time.¶ two of the world's most famous Internet liberalists are now hunted by the US. This kind of confrontation is unconventional and represents a risk to the image of a strong US. ¶ Washington hasn't issued any apology to the world. The criticism of the EU against US' espionage activities was also simply dismissed. Fairness and justice is common goal of the world. They are also required in international relations. The morals Washington has displayed to the international community don't match the country's role as world leader**.** In many cases, the US destroyed the world order that it has helped to build.¶ How will the Snowden issue be wrapped up will give us some hints of the US' performance on the world stage. ¶ we probably shouldn't expect too much from a country that doesn't bother to offer an explanation to such a shocking scandal. ¶ The US is still holding on to an outdated understanding of national interests, based on which it has designed its Internet policy.¶ We believe Snowden will not be the last liberal fighter against Washington. The sudden appearance of such a fight actually comes from accumulation of events of our times.¶ The Internet is changing the world. We don't yet have a full understanding of what will occur.¶

**Smart Power is Necessary to Moderate Hard Power and Harden Soft Power – the AFF is necessary to deploy multiple strategies to defeat terrorism**

 (Joseph **Nye**, teaches at Harvard, Leadership Expert, “Smart Power,” Harvard Business Review, November **2008**, pg nexis//ef)

Q: Can a democracy really defeat terrorism with soft power? A: Let me be clear: There are definitely times when you have to use hard power. Think back to the 1990s, when the Taliban government was providing refuge to Al Qaeda in Afghanistan and President Bill Clinton tried to solve that problem diplomatically. He was trying to persuade the Taliban, and the approach failed. The net result was that the United States didn't do enough to destroy the terrorist havens the Taliban had created for Al Qaeda. That's a case when soft power did not work and actually delayed the United States from acting as it probably should have, with more hard power. So soft power can be counterproductive if it prevents you from doing what needs to be done. But if the way you use your hard power antagonizes the mainstream, you will find that the Osama bin Ladens of this world are able to recruit more people with their soft power than you are able to deter with your hard power. Today the United States is involved in a battle for the hearts and minds of mainstream Muslims. Americans have to use soft power to prevent them from being recruited by terrorists. That's why Iraq was a serious mistake. President Bush tried to produce democracy in Iraq through hard power alone, and the negative effect has set America back. Yes, coercion, hard power, is absolutely necessary for a democracy to defeat terrorism. But at times, attraction, soft power, is the more critical component. Soft power can draw young people toward something other than the terrorist alternative. You can't do that through coercion. Q: You say soft power and hard power are both necessary. Yet you dedicate your latest book to your wife, Molly, "who leads with soft power." A: I do prefer soft power to hard power. But you have to realize that soft power is not good per se; it has to be put to good purpose. The ability to attract others has been possessed by some evil people: Hitler, Stalin, Mao, bin Laden. Jim Jones, who started Peoples Temple, used manipulative soft power to get over 900 people to commit suicide by drinking poisoned Kool-Aid. His followers believed that he was a guru who had the ultimate word on their salvation. As I said, soft or hard, power is simply an instrument. You can argue that soft power is slightly preferable to hard because it gives more freedom to the person who is its object. If I want to steal your money and I take out a gun and shoot you, that's hard power, you have no choice in the matter. If I try to convince you that I'm a guru and that you should give me your bank account number, presumably you could choose to resist me. Q: Teddy Roosevelt famously said that we must speak softly and carry a big stick. Was he talking about soft or hard power? A: Roosevelt was the epitome of smart power: the combination of soft and hard power in the right mix in the appropriate context. The problems facing America and the world today are going to need lots of smart power, and leaders who want to understand it could do worse than to study Teddy Roosevelt. He was acutely alert to the use of hard power, look at his fondness for the military. But he was also aware of the importance of soft power. Roosevelt's chief motivation in negotiating crucial treaties such as the Portsmouth Treaty of 1905, which ended the war between Russia and Japan, was to make the United States more appealing. When he sent the Great White Fleet, the new American navy, on a tour around the world, he wanted both to display the country's new military power and to advertise America as a force for good. In effect, he used a hard-power tool, the navy, as a soft-power symbol. This kind of exercise of smart power is why Teddy Roosevelt often ends up on lists of the best half dozen or so presidents in U.S. history.

**Even high soft power won’t check anti-Americanism, smart power is key.**

David P. Calleo, Professor, John Hopkins University, FOLLIES OF POWER: AMERICA'S UNIPOLAR FANTASY **20**09 p 67.

The U.S. certainly has abundant soft power. Its high culture can scarcely be considered inferior to anyone else's - in the arts and sciences or in higher education and research - not least because the polyglot U.S. has historically been a refuge for persecuted talent from around the world. But America's accomplishments in high culture are rivaled by others and scarcely justify America's claims to a unipolar status. American popular culture, however, is so widely diffused that it can claim a unique global stature. Does its attractiveness to the world's masses translate into usable soft power? Arguably,foreigners often find most appealing those aspects of American popular culture most vociferously in opposition to America's own political, social, and military establishments. In any event**,** admiration for American popular culture does little to obstruct populist anti-Americanism**.** Terrorists eat at McDonald's, wear blue jeans, and download popular music.

**Security leaks compromise U.S. leadership. Transparency is key to maintain an air of stability, Snowden proves.**

Peter Brookes June 27, **2013** (Peter Brookes is a Heritage Foundation senior fellow and a former deputy assistant secretary of defense. “Snowden Flap Bares Hapless U.S.” Heritage, June 27, 2013 http://www.heritage.org/research/commentary/2013/6/snowden-flap-bares-hapless-us)

You can’t help but feel that the Russian Bear and Chinese Dragon are enjoying the chance to tweak ol’ Uncle Sam’s nose over the Edward “I’ve got lots of super-secret laptops” Snowden affair.**¶** Their unwillingness to extradite the slippery systems administrator-cum-spy is just the latest example of the waning of American global power and influence courtesy of Team Obama.¶ This isn’t good news.¶ Take Russia. The Kremlin is telling us that the fugitive is in no-man’s land in Moscow’s international airport. They claim their hands are tied and they just can’t do anything about it.¶ When asked about l’affaire Snowden during a visit to Finland yesterday, Vladimir Putin compared him to WikiLeaks founder Julian Assange.¶ “Ask yourself a question: Should people like that be extradited so that they put them in prison, or not?” he said. “In any case, I would prefer not to deal with such issues. It’s like shearing a piglet: a lot of squealing and little wool.”¶ Of course, say it were a Russian fugitive, would Moscow just let him/her sit in the transit lounge, sipping vodkas and nibbling caviar? Of course not. The Russian authorities wouldn’t think twice about storming the place**.**¶ In addition to dissing Washington, Moscow doesn’t mind dragging this sorry situation out, either. The longer this story makes headlines, the weaker America looks in the world’s eyes.**¶** Yes, perception is reality**.¶** it’s also payback for disagreements between Moscow and Washington**.** The Kremlin is none too happy with criticism over Sergei Magnitsky, a Russian auditor who died in a Moscow prison in 2009 after revealing corruption.¶ Russia is also displeased with America’s stance on Syria, where the Kremlin is supporting the Bashar Assad regime and the White House is (cautiously) backing some elements of the rebel force. The Putin-Obama meeting on Syria at the G-8 was dis-astrous.¶ Even though Team Obama backed off on missile defense in Europe that Putin & Co. have long hated and offered up another arms control treaty, the relationship has gone from Obama’s hoped-for “reset” to our collective “regret.”¶ then there’s China.¶ Snowden showed up last month in Hong Kong after disappearing from his job in Hawaii. Though Hong Kong is self-governing until it reverts fully to Chinese control, Beijing calls the shots there, especially on foreign and security policy.¶ While Zhongnanhai (China’s version of the Kremlin) knew the White House would be furious with China for refusing to extradite Snowden, they likely figured the United States would get over the snub in time due to the relationship’s importance to both sides.¶ It didn’t help that Snowden told a Hong Kong newspaper that the National Security Agency was spying on China.¶ The revelation probably helped Beijing decide to let the rogue contractor slip out of Hong Kong and become someone else’s problem — no doubt after they got their hands on any secrets he hadn’t yet revealed.**¶** That this latest Washington scandal might sap America’s international “mojo” also benefits China**.¶** Beijing is already calling for a “new big power relationship” (read: equal relationship) with the United States and is displeased with American “meddling” in its territorial disputes in the East and South China seas.¶ The big question, naturally, is: With perceptions of our plummeting power quite plausible, who might be the next to take pleasure in challenging our interests?¶ -Peter Brookes is a Heritage Foundation senior fellow and a former deputy assistant secretary of defense.

**Leaks endanger people’s lives and strategic viability of US decisions, having a mandatory but not excessive declassification process is key.**

John R. **Bolton** June 18, **2013** (John R. Bolton, a diplomat and a lawyer, has spent many years in public service. From August 2005 to December 2006, he served as the U.S. permanent representative to the United Nations. From 2001 to 2005, he was undersecretary of state for arms control and international security. At AEI, Ambassador Bolton's area of research is U.S. foreign and national security policy. “Edward Snowden’s leaks are a grave threat to US national security” American Enterprise Institute, June 18, 2013 <http://www.aei.org/article/foreign-and-defense-policy/defense/intelligence/edward-snowdens-leaks-are-a-grave-threat-to-us-national-security/>)

Edward Snowden's revelations regarding highly sensitive US techniques for gathering foreign-intelligence continue roiling Washington. And because Snowden combined elements of truth swirled together with paranoid speculation, outright lies and pure hype, reviving a rational discussion has been hard.¶ Snowden's sympathizers and anti-American activists have so far largely controlled his story line. But that is changing, and with it, the likely tenor of the debate over whether Snowden is a hero or a traitor.¶ Snowden initially violated his oath to safeguard the national security secrets entrusted to him by revealing National Security Agency (NSA) programs arguably affecting the privacy of US citizens. The second wave of leaks, however, involved purported American cyber-intelligence activities globally and against China. Snowden claimed there were more than 61,000 US hacking operations globally, with hundreds of them directed at China and Hong Kong, and implied the existence of numerous other activities to surveil and counter Beijing's growing cyber-warfare capabilities.¶ Publicizing America's alleged intelligence-collection programs against China may not be identical to Philip Agee revealing the identities of US clandestine operatives, thereby endangering their lives, but it is close.We do not yet know whether Snowden jeopardized US agents, but vital sources and methods of intelligence gathering and operations are clearly at risk. In cyber terms, this is akin to Benedict Arnold scheming to betray West Point's defenses to the British, thereby allowing them to seize a key American fortification, splitting the colonies geographically at a critical point during the American Revolution.¶ The political implications are grave. Snowden has given Beijing something it couldn't achieve on its own: moral equivalence**.** Now, China can portray itself as a victim, besieged by America, and simply trying to defend itself. Snowden's initial leaks on NSA programs also caused substantial political harm, above and beyond the intelligence damage. Several European governments which co-operated with the US are now predictably running for the tall grass, endangering the continuity of existing programs and damaging prospects for future co-operation. As with the Bradley Manning/WikiLeaks exposure of thousands of classified State Department and Pentagon cables, Europeans want to know why Washington can't protect sensitive information. But Beijing does not deserve moral equivalence**,** given the intensity of its cyber-attacks against America. The key point is that China struck first, developing a pronounced asymmetric advantage**.** Militarily, US combat arms are far more vulnerable to attacks on their command-and-control information technology systems than are Beijing's more primitive capabilities. That may change as China's military becomes more sophisticated, but for now, offensive cyber capabilities are a preferred Chinese strategy.¶ economically, cyber warfare is even more one-sided. As economist Irwin Stelzer recently said (paywall):¶ "America has lots of intellectual property that is worth stealing, China has very little."¶ by inaccurately elevating Beijing to moral equivalence with Washington, Snowden obscured this critical distinction, giving China political shelter.¶ But what Americans should understand most importantly is what the China leaks reveal about Snowden. If he is lying about these programs, as in some of his earlier assertions about NSA's eavesdropping, that tells us something important about his character. And if he is telling the truth, revealing sensitive information about American efforts to protect itself against the world's greatest cyber-warfare power that tells us even more about his character.¶ NSA activities against China do not even arguably violate the privacy of US citizens, which is Snowden's supposedly highminded motive for initially breaking his word, dishonorably and deceitfully. In fact, Snowden's unilateral decision to leak endangers the national security of 300 million other Americans**.** He didn't ask their views or their permission, and he has no democratic legitimacy whatever.¶ The NSA's programs, at least, were approved by all three branches of our government, two elected by the people and the third populated by the first two. The Founders only gave us three branches, and while far from perfect, they are at least ultimately accountable to America's real sovereigns: its citizens. Snowden is accountable only to his own self-importance.¶ Moreover, the China leaks highlight gaps and inconsistencies in Snowden's "legend" (as invented identities are sometimes called). Before he made his run for China, was he acting alone, as he claims, or was he acting partly as a vehicle for others in the intelligence community or in Congress, disgruntled and out to settle scores? Snowden denies previous ties to China's government or being Beijing's agent: is this true or not? Or is he not now, both overtly and covertly, trying to bribe Beijing's authorities to secure asylum in China, contrary to his earlier smug comments about facing the consequences of his actions in America?¶ Unfortunately, Snowden clearly has more information to reveal, causing more damage to the United States and its allies. But we know enough already to conclude that Snowden has betrayed his country and the trust his countrymen placed in him in sensitive positions of confidence in our intelligence community.¶ So, make no mistake: any American politician who now calls Snowden a hero is not fit to be entrusted with America's national security

**Whistle-blowers create a challenge to U.S. Hegemony, exposes contradictions and espionage.**

Global Times 7/3/**2013** (Global times, “Snowden’s fate a sign of US hegemony,” 7/3/13, http://www.globaltimes.cn/content/793371.shtml#.UeSoW42siSo)

Edward Snowden, a whistle-blower from the US National Security Agency, applied to 21 countries for political asylum on July 1, but encountered negative responses. Snowden withdrew his Russia asylum bid after Russian President Vladimir Putin dictated terms for his stay**.** The fate of the whistleblower has become a symbol testing US hegemony**.** Snowden's exposure has discredited the US. His latest revelations that the US has been spying on the EU mission in New York and its embassy in Washington have caused explosive consequences and strong reactions fromEU members likeFrance and Germany.These immoral actions will further deprive the US of its power to mess with world affairs under the guise of moral values.Snowden has exposed US hypocrisy, its random violations of citizens' privacy and arrogant cyber espionage in other countries. US soft power has failed to prevent these negative influences spreading across the world.Non-US media refrained from launching harsh criticism against the US, but the storm caused by Snowden's leaks has made the global public well aware of what's going on. ¶ Snowden's latest step has displayed US hegemony to the world.He submitted 21 applications for political asylum, then the US projected its power - the countries involved either cowered or delayed for time.¶ two of the world's most famous Internet liberalists are now hunted by the US. This kind of confrontation is unconventional and represents a risk to the image of a strong US. ¶ Washington hasn't issued any apology to the world. The criticism of the EU against US' espionage activities was also simply dismissed. Fairness and justice is common goal of the world. They are also required in international relations. The morals Washington has displayed to the international community don't match the country's role as world leader**.** In many cases, the US destroyed the world order that it has helped to build.¶ How will the Snowden issue be wrapped up will give us some hints of the US' performance on the world stage. ¶ we probably shouldn't expect too much from a country that doesn't bother to offer an explanation to such a shocking scandal. ¶ The US is still holding on to an outdated understanding of national interests, based on which it has designed its Internet policy.¶ We believe Snowden will not be the last liberal fighter against Washington. The sudden appearance of such a fight actually comes from accumulation of events of our times.¶ The Internet is changing the world. We don't yet have a full understanding of what will occur.¶

# A2’s:

## A2 – Topicality:

### SUBSTANTIALLY

Substantial simply must be exposed publically and take place at the present time

Words and Phrases 64 (40W&P 759)

The words" outward, open, actual, visible, substantial, and exclusive," in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain: absolute: real at present time, as a matter of fact, not merely nominal; opposed to fonn; actually existing; true; not including, admitting, or pertaining to any others; undivided; sole; opposed to inclusive.

**AND, we meet, the AFF is the definition of exposing something publicly and it passes immediately.**

### CURTAIL

**Curtailing surveillance means to reduce or impose a restriction on**

**Oxford Dictionary** last accessed 6/16/**2015** http://www.oxforddictionaries.com/us/definition/american\_english/curtail

Reduce in extent or quantity; impose a restriction on: civil libertieswere further curtailed

**AND, we meet, The aff would impose a restriction on government surveillance by deterrence from questionably legal spying.**

FISA Amendment 1451, the “Judiciary,” and FISA Reform By Steve **Vladeck** Tuesday, June 2, **2015**, 6:22 AM http://www.lawfareblog.com/amendment-1451-%E2%80%9Cjudiciary%E2%80%9D-and-fisa-reform#

Ben’s post from late last night highlights, among other things, “Amendment 1451,” one of the proposed revisions to the USA FREEDOM Act (as passed by the House on May 13) that the Senate is set to consider in the coming days. Quoting from the internal Republican staff memo posted by Ben, Amendment 1451 apparently “provides that section 401 [the provision of the House bill that would create a “special advocate” qua amicus to appear opposite the government in the FISA Court] shall not have effect, and in its place creates a new section 110A in the underlying bill.” That provision, the memo provides, “basically reaffirms the inherent authority of a court to appoint amicus curiae to assist the court in its work.” [Note: Here’s the actual language of Amendment 1451.] Why is such a radical amendment to a provision in the House bill that was negotiated very carefully so necessary? According to the memo, “Amendment 1451 is responsive to the judiciary’s continual opposition to the amicus structure of the USA Freedom Act,” as manifested in “a letter to Congress from the director of the Administrative Office of the U.S. Courts.” Here’s the letter in question–from James Duff, who certainly is “the director of the Administrative Office of the U.S. Courts [AO]” (more on that in a moment). The letter is but the latest in a series of such missives–the previous iterations of which were all signed by Judge John D. Bates, former presiding judge of the FISA Court, in his previous capacity as Director of the AO. As I’ve written at great length before both here and at Just Security (and as I elaborate upon below the fold), though, for three different reasons, these letters are utter bullshit–and, as a result, Amendment 1451 is, too. First, let there be no question whether either Judge Bates or Director Duff actually is speaking on behalf of the judiciary; they’re not. Indeed, even the more nuanced argument–that, as Secretary of the Judicial Conference of the United States, they’re speaking on behalf of that body (which, by law, speaks for the courts on certain pending legislation and other matters when appropriate), is belied by then-Chief Judge Kozinski’s rather… blunt… August 14 letter to the Senate Judiciary and Intelligence Committees, in which he made quite clear that, as a member of the Judicial Conference (like all other chief circuit judges), “I have serious doubts about the views expressed by Judge Bates,” and “[i]nsofar as Judge Bates’s August 5th letter may be understood as reflecting my views, I advise the Committee that this is not so.” But even if Judge Bates and Director Duff were only purporting to speak for the FISA Court (not that they viewed their mandate so narrowly), it’s worth emphasizing that several of its judges have made various public statements supporting even more robust participation by a “special advocate” than that provided by the USA FREEDOM Act (see, for example, this July 2014 op-ed in The Hill by Judge James Carr). Simply put, it’s not at all clear to me, and never has been, exactly who Judge Bates or Director Duff are speaking for. If anything is clear, though, it’s that it sure isn’t “the judiciary,” writ large. Second, even if the AO, through Judge Bates or Director Duff, was speaking on behalf of the judiciary (and again, let’s be clear–they’re not), it’s not at all obvious that it would be either procedurally or substantively appropriate for them to do so. Here’s what I wrote back in August on the matter: why is it remotely the concern of the courts whether a legislative reform might “prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA”? As citizens, judges may think such a reform unwise; as judges, I have a hard time seeing how that objection is an appropriate one for them to make. And the third set of concerns [raised in Judge Bates’s August 5 letter]–that the proposed reforms might be unconstitutional–are even more out of place in this context, since they only impact judicial administration to the extent that any litigation challenging the constitutionality of new rules would; and, even more disturbingly, appear to prejudge the merits of such challenges. Indeed, even a cursory persual of 28 U.S.C. § 331 leaves me hard-pressed to find any authority for the Judicial Conference (as a whole) to directly comment on pending legislation in Congress, as compared to recommending changes to court rules “to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay”–to the Supreme Court. In other words, even if Judge Bates and Director Duff were actually speaking for the judiciary, their concerns don’t appear to be appropriate ones for judges qua judges to have, or ones with respect to which the “judiciary” has statutory authority to so directly participate. Third, and most importantly, even on the merits, the substantive concerns raised in these letters are, charitably, overstated. The Senate Republican staff memo quotes Director Duff’s letter’s focus on how participation of a “special advocate” would hinder the government’s candor before the FISA Court, and thereby present “greater challenges to the FISA Courts’ role in protecting civil liberties than does the lack of a non-governmental perspective on novel legal issues or technological developments.” This argument is almost laughably silly. Here’s what I wrote in August in response to Judge Bates’s invocation of the very same concern: Judge Bates offers no evidence in support of his claim that allowing a security cleared outside amicus to participate before the FISA Court will somehow affect the government’s duty of candor to the tribunal, or otherwise disrupt the (apparently quite congenial) relationship between the FISC and the relevant government stakeholders. Indeed, Congress has already provided for security cleared private counsel to participate in FISA Court proceedings in the contexts of applications under section 215 of the USA PATRIOT Actand section 702 of FISA (as amended by the FISA Amendments Act of 2008). Does Judge Bates object to those provisions, as well? If not, why would a security cleared special advocate be any different in this regard than a security cleared private lawyer for the recipient of a section 215 production order or section 702 directive? Judge Bates doesn’t say, nor does he offer any examples in which security cleared private counsel who have had access to classified information have unlawfully disclosed such information. Why would FISA proceedings be any different in this regard from, say, the Guantánamo habeas litigation? And insofar as the concern stems from reliance upon unclassified summaries, how is the [USA FREEDOM Act] any different from the well-established rules under the Classified Information Procedures Act (CIPA)? So too, here. In his August letter (although not in Director Duff’s more recent note), Judge Bates wrote that he feared that having to provide a special advocate with access to at least some of the classified information upon which surveillance applications are based “could prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA.” But if that‘s the objection, then, as I wrote back then, “it’s more than a little telling that the Executive Branch nevertheless supports the Senate bill. If this was really a genuine problem (indeed, some may well think that forcing such a choice is exactly the point), wouldn’t we expect to have heard about it from the intelligence community, the Justice Department, and/or the White House? That is to say, isn’t Judge Bates’s real objection here on behalf of the (apparently content) Executive Branch, and not the judiciary? Even the former FBI General Counsel has openly supported these kinds of reforms…” And even if section 401 of the USA FREEDOM Act would “prompt the government not to pursue potentially valuable intelligence-gathering activities under FISA,” why is that a reason for the judiciary to oppose it??? I don’t mean to belabor the point. If anything, as I suggested yesterday, section 401 of the House-passed USA FREEDOM Act is a terribly weak version of what should have been a very good (and unobjectionable) idea–allowing a security-cleared outside lawyer to participate in the tiny percentage of cases before the FISC that involve applications for anything besides individualized warrants (you know, the cases in which adversarial participation is already authorized).Part of why section 401 is so weak is because members of Congress have consistently allowed themselves to be snookered by (or have found it convenient to hide behind) the objections of the “judiciary.” On the merits, though, these objections are patently unavailing. And they certainly aren’t the objections of the “judiciary.”

### DOMESTIC

**Domestic simply means within our country.**

"Domestic." *Merriam-Webster.com*. **Merriam-Webster**, n.d. Web. 16 June **2015**. <http://www.merriam-webster.com/dictionary/domestic>.

Of, relating to, or made in your own country : relating to or involving someone's home or family : relating to the work (such as cooking and cleaning) that is done in a person's home

**AND, we meet, FISA courts rule on surveillance of citizens in the US and the courts themselves take place within the US**

### SURVEILLANCE

**FISA Courts are literally the most topical surveillance, they are directly responsible for nearly all surveillance domestically.**

"Surveillance." *Merriam-Webster.com*. **Merriam-Webster**, n.d. Web. 16 June **2015**. <http://www.merriam-webster.com/dictionary/surveillance>.

**:** The act of carefully watching someone or something especially in order to prevent or detect a crime

**AND, we meet, curtailing surveillance by forcing the courts to only do things that are legal means they cut down on liberty infringing surveillance.**

**Standards-**

1. Framer’s Intent: Definition is better because it more accurately represents what the framers of the resolution had intended. The Framer’s intended for us to create real world solutions NOW, not something that will take time.
2. Ground: The affirmative team’s interpretation of the resolution fairly limits the number of cases that fall within the topic; therefore, the affirmative team cannot come here and run any case they choose. By doing this you, as the judge, increase the educational value of this debate round.
3. Education: prefer our more specific interp, limits are good: Most logical—the significance of one-of-many issues is minimal. Limits inherently increases meaning. It’s a precursor—education is inevitable, unfocused education isn’t productive. Limits shape the direction and productivity of learning.

**Studies prove—depth is better than breadth.**

**Arrington 09** (Rebecca, UVA Today, “Study Finds That Students Benefit From Depth, Rather Than Breadth, in High School Science Courses” March 4)

**A recent study reports that high school students who study fewer** science topics, **but study them in greater depth, have an advantage in college** science classes **over their peers who study more topics and spend less time on each.** Robert Tai, associate professor at the University of Virginia's Curry School of Education, worked with Marc S. Schwartz of the University of Texas at Arlington and Philip M. Sadler and Gerhard Sonnert of the Harvard-Smithsonian Center for Astrophysics to conduct the study and produce the report. "Depth Versus Breadth: How Content Coverage in High School Courses Relates to Later Success in College Science Coursework" relates the amount of content covered on a particular topic in high school classes with students' performance in college-level science classes. The study will appear in the July 2009 print edition of Science Education and is currently available as an online pre-print from the journal. "As a former high school teacher, I always worried about whether it was better to teach less in greater depth or more with no real depth. This study offers evidence that teaching fewer topics in greater depth is a better way to prepare students for success in college science," Tai said. "These results are based on the performance of thousands of college science students from across the United States." The 8,310 students in the study were enrolled in introductory biology, chemistry or physics in randomly selected four-year colleges and universities. Those who spent one month or more studying one major topic in-depth in high school earned higher grades in college science than their peers who studied more topics in the same period of time. **The study revealed that students in courses that focused on mastering a particular topic were impacted twice as much as those in courses that touched on every major topic.**

**Topicality Framework: How you view topicality**

a. **Reasonability** **-** Evaluate topicality by what is reasonably topical. This ensures that the Aff is able to adequately answer arguments made by the Negative. The only option being to answer a blippy topicality with large blocks destroys AFF competitive ground by skewing allocation of speech time and prep time.

## A2 - Terrorism DA:

### DEFENSE

**In-depth analysis shows NSA metadata is not critical to counter-terrorism, claims to the contrary by government officials are made without substantiated evidence.**

Peter **Bergen et al**, 1/13/**2014**. [David Sterman](http://newamerica.net/user/611), [Emily Schneider](http://newamerica.net/user/610), and [Bailey Cahall](http://newamerica.net/user/548). New America Foundation. “Do NSA's Bulk Surveillance Programs Stop Terrorists?” http://www.newamerica.net/publications/policy/do\_nsas\_bulk\_surveillance\_programs\_stop\_terrorists.

On June 5, 2013, the Guardian broke the first story in what would become a flood of revelations regarding the extent and nature of the NSA’s surveillance programs.  Facing an uproar over the threat such programs posed to privacy, the Obama administration scrambled to defend them as legal and essential to U.S. national security and counterterrorism. Two weeks after the first leaks by former NSA contractor Edward Snowden were published, President Obama defended the NSA surveillance programs during a visit to Berlin, saying: “We know of at least 50 threats that have been averted because of this information not just in the United States, but, in some cases, threats here in Germany. So lives have been saved.”  Gen. Keith Alexander, the director of the NSA, testified before Congress that: “the information gathered from these programs provided the U.S. government with critical leads to help prevent over 50 potential terrorist events in more than 20 countries around the world.”  Rep. Mike Rogers (R-Mich.), chairman of the House Permanent Select Committee on Intelligence, said on the House floor in July that “54 times [the NSA programs] stopped and thwarted terrorist attacks both here and in Europe – saving real lives.”   However, our review of the government’s claims about the role that NSA “bulk” surveillance of phone and email communications records has had in keeping the United States safe from terrorism shows that these claims are overblown and even misleading.  An in-depth analysis of 225 individuals recruited by al-Qaeda or a like-minded group or inspired by al-Qaeda’s ideology, and charged in the United States with an act of terrorism since 9/11, demonstrates that traditional investigative methods, such as the use of informants, tips from local communities, and targeted intelligence operations, provided the initial impetus for investigations in the majority of cases, while the contribution of NSA’s bulk surveillance programs to these cases was minimal. Indeed, the controversial bulk collection of American telephone metadata, which includes the telephone numbers that originate and receive calls, as well as the time and date of those calls but not their content, under Section 215 of the USA PATRIOT Act, appears to have played an identifiable role in initiating, at most, 1.8 percent of these cases. NSA programs involving the surveillance of non-U.S. persons outside of the United States under Section 702 of the FISA Amendments Act played a role in 4.4 percent of the terrorism cases we examined, and NSA surveillance under an unidentified authority played a role in 1.3 percent of the cases we examined.  Regular FISA warrants not issued in connection with Section 215 or Section 702, which are the traditional means for investigating foreign persons, were used in at least 48 (21 percent) of the cases we looked at, although it’s unclear whether these warrants played an initiating role or were used at a later point in the investigation. (Click on the link to go to a database of all 225 individuals, complete with additional details about them and the government’s investigations of these cases:<http://natsec.newamerica.net/nsa/analysis>). Surveillance of American phone metadata has had no discernible impact on preventing acts of terrorism and only the most marginal of impacts on preventing terrorist-related activity, such as fundraising for a terrorist group. Furthermore, our examination of the role of the database of U.S. citizens’ telephone metadata in the single plot the government uses to justify the importance of the program – that of Basaaly Moalin, a San Diego cabdriver who in 2007 and 2008 provided $8,500 to al-Shabaab, al-Qaeda’s affiliate in Somalia – calls into question the necessity of the Section 215 bulk collection program.  According to the government, the database of American phone metadata allows intelligence authorities to quickly circumvent the traditional burden of proof associated with criminal warrants, thus allowing them to “connect the dots” faster and prevent future 9/11-scale attacks. Yet in the Moalin case, after using the NSA’s phone database to link a number in Somalia to Moalin, the FBI waited two months to begin an investigation and wiretap his phone. Although it’s unclear why there was a delay between the NSA tip and the FBI wiretapping, court documents show there was a two-month period in which the FBI was not monitoring Moalin’s calls, despite official statements that the bureau had Moalin’s phone number and had identified him. , This undercuts the government’s theory that the database of Americans’ telephone metadata is necessary to expedite the investigative process, since it clearly didn’t expedite the process in the single case the government uses to extol its virtues.  Additionally, a careful review of three of the key terrorism cases the government has cited to defend NSA bulk surveillance programs reveals that government officials have exaggerated the role of the NSA in the cases against David Coleman Headley and Najibullah Zazi, and the significance of the threat posed by a notional plot to bomb the New York Stock Exchange.  In 28 percent of the cases we reviewed, court records and public reporting do not identify which specific methods initiated the investigation. These cases, involving 62 individuals, may have been initiated by an undercover informant, an undercover officer, a family member tip, other traditional law enforcement methods, CIA- or FBI-generated intelligence, NSA surveillance of some kind, or any number of other methods. In 23 of these 62 cases (37 percent), an informant was used. However, we were unable to determine whether the informant initiated the investigation or was used after the investigation was initiated as a result of the use of some other investigative means. Some of these cases may also be too recent to have developed a public record large enough to identify which investigative tools were used. We have also identified three additional plots that the government has not publicly claimed as NSA successes, but in which court records and public reporting suggest the NSA had a role. However, it is not clear whether any of those three cases involved bulk surveillance programs. Finally, the overall problem for U.S. counterterrorism officials is not that they need vaster amounts of information from the bulk surveillance programs, but that they don’t sufficiently understand or widely share the information they already possess that was derived from conventional law enforcement and intelligence techniques. This was true for two of the 9/11 hijackers who were known to be in the United States before the attacks on New York and Washington, as well as with the case of Chicago resident David Coleman Headley, who helped plan the 2008 terrorist attacks in Mumbai, and it is the unfortunate pattern we have also seen in several other significant terrorism cases.

**Mass surveillance fails far too many false positives to ever effectively stop a real terror plot.**

Ray **Corrigan**, 1/25/**2015**. Senior lecturer in mathematics, computing, and technology at the Open University, U.K. “Mass Surveillance Will Not Stop Terrorism,” Slate, http://www.slate.com/articles/health\_and\_science/new\_scientist/2015/01/mass\_surveillance\_against\_terrorism\_gathering\_intelligence\_on\_all\_is\_statistically.html.

In response to the terrorist attacks in Paris, the U.K. government is redoubling its efforts to engage in mass surveillance. Prime Minister David Cameron wants to [reintroduce the so-called snoopers’ charter](http://www.newscientist.com/article/dn26790-focus-on-surveillance-as-us-militarys-tweets-hacked.html%22%20%5Ct%20%22_blank)—properly, the Communications Data Bill—which would compel telecom companies to keep records of all Internet, email, and cellphone activity. He also wants to ban encrypted communications services. Cameron seems to believe terrorist attacks can be prevented if only mass surveillance, by the U.K.’s intelligence-gathering center GCHQ and the U.S. National Security Agency, reaches the degree of perfection portrayed in [his favorite TV dramas](http://www.telegraph.co.uk/news/uknews/crime/10608439/David-Cameron-TV-crime-dramas-show-need-for-snoopers-charter.html%22%20%5Ct%20%22_blank), where computers magically pinpoint the bad guys. Computers don’t work this way in real life and neither does mass surveillance. Brothers Said and Cherif Kouachi and Amedy Coulibaly, who murdered 17 people, were known to the French security services and considered a serious threat. France has blanket electronic surveillance. It didn’t avert what happened. Police, intelligence, and security systems are imperfect. They process vast amounts of imperfect intelligence data and do not have the resources to monitor all known suspects 24/7. The French authorities lost track of these extremists long enough for them to carry out their murderous acts. You cannot fix any of this by treating the entire population as suspects and then engaging in suspicionless, blanket collection and processing of personal data. Mass data collectors can dig deeply into anyone’s digital persona but don’t have the resources to do so with everyone. Surveillance of the entire population, the vast majority of whom are innocent, leads to the diversion of limited intelligence resources in pursuit of huge numbers of false leads. Terrorists are comparatively rare, so finding one is a needle-in-a-haystack problem. You don’t make it easier by throwing more needleless hay on the stack. It is [statistically impossible for total population surveillance to be an effective tool](http://www.counterpunch.org/2006/05/24/why-does-the-nsa-engage-in-mass-surveillance-of-americans-when-it-s-statistically-impossible-for-such-spying-to-detect-terrorists/%22%20%5Ct%20%22_blank)for catching terrorists. Even if your magic terrorist-catching machine has a false positive rate of 1 in 1,000—and no security technology comes anywhere near this—every time you asked it for suspects in the U.K. it would flag 60,000 innocent people. Law enforcement and security services need to be able to move with the times, using modern digital technologies intelligently and through targeted data preservation—not a mass surveillance regime—to engage in court-supervised technological surveillance of individuals whom they have reasonable cause to suspect. That is not, however, the same as building an infrastructure of mass surveillance. Mass surveillance makes the job of the security services more difficult and the rest of us less secure.

**Government statements about NSA surveillance preventing attacks have been thoroughly debunked.**

Cindy **Cohn and** Nadia **Kayyali**, 6/2/**2014**. Executive Director of the Electronic Frontier Foundation. From 2000-2015 she served as EFF’s Legal Director as well as its General Counsel; and member of EFF’s activism team. Nadia's work focuses on surveillance, national security policy, and the intersection of criminal justice, racial justice, and digital civil liberties issues. “The Top 5 Claims That Defenders of the NSA Have to Stop Making to Remain Credible,” Electronic Frontier Foundation, https://www.eff.org/deeplinks/2014/06/top-5-claims-defenders-nsa-have-stop-making-remain-credible.

Over the past year, as the Snowden revelations have rolled out, the government and its apologists have developed a set of talking points about mass spying that the public has now heard over and over again. From the President, to Hilary Clinton to Rep. Mike Rogers, Sen. Dianne Feinstein and many others, the arguments are often eerily similar. But as we approach the one year anniversary, it’s time to call out the key claims that have been thoroughly debunked and insist that the NSA apologists retire them.  So if you hear any one of these in the future, you can tell yourself straight up: “this person isn’t credible,” and look elsewhere for current information about the NSA spying. And if these are still in your talking points (you know who you are) it’s time to retire them if you want to remain credible. And next time, the talking points should stand the test of time. 1.  The NSA has Stopped 54 Terrorist Attacks with Mass Spying The discredited claim NSA defenders have thrown out many claims about how NSA surveillance has protected us from terrorists, including repeatedly declaring that it has thwarted 54 plots.  Rep. Mike Rogerssays it often. Only weeks after the first Snowden leak, US President Barack Obama claimed: “We know of at least 50 threats that have been averted” because of the NSA’s spy powers. Former NSA Director Gen. Keith Alexander also repeatedly claimed that those programs thwarted 54 different attacks. Others, including former Vice President Dick Cheney have claimed that had the bulk spying programs in place, the government could have stopped the 9/11 bombings, specifically noting that the government needed the program to locate Khalid al Mihdhar, a hijacker who was living in San Diego.  Why it’s not credible: These claims [have been thoroughly debunked](http://www.propublica.org/article/claim-on-attacks-thwarted-by-nsa-spreads-despite-lack-of-evidence).  First, the claim that the information stopped 54 terrorist plots fell completely apart.  In dramatic [Congressional testimony](http://www.propublica.org/article/claim-on-attacks-thwarted-by-nsa-spreads-despite-lack-of-evidence?utm_campaign=inline_twitter&utm_source=twitter&utm_medium=social&utm_term=nsa-54), Sen. Leahy forced a formal retraction from NSA Director Alexander in October, 2013: "Would you agree that the 54 cases that keep getting cited by the administration were not all plots, and of the 54, only 13 had some nexus to the U.S.?" Leahy said at the hearing. "Would you agree with that, yes or no?" "Yes," Alexander replied, without elaborating. But that didn’t stop the apologists. We keep hearing the “54 plots” line to this day.  As for 9/11, sadly, the same is true.  The government did not need additional mass collection capabilities, like the mass phone records programs, to find al Mihdhar in San Diego.  AsProPublica noted, quoting Bob Graham, the former chair of the Senate Intelligence Committee: U.S. intelligence agencies knew the identity of the hijacker in question, Saudi national Khalid al Mihdhar, long before 9/11 and had the ability find him, but they failed to do so. "There were plenty of opportunities without having to rely on this metadata system for the FBI and intelligence agencies to have located Mihdhar," says former Senator Bob Graham, the Florida Democrat who [extensively investigated](http://www.propublica.org/documents/item/716032-congressional-911-report-crpt-107hrpt792) 9/11 as chairman of the Senate’s intelligence committee. Moreover, Peter Bergen and a team at the New America Foundation dug into the government’s claims about plots in America, including studying over 225 individuals recruited by al Qaeda and similar groups in the United States and charged with terrorism,  and [concluded](http://www.newamerica.net/publications/policy/do_nsas_bulk_surveillance_programs_stop_terrorists): Our review of the government’s claims about the role that NSA "bulk" surveillance of phone and email communications records has had in keeping the United States safe from terrorism shows that these claims are overblown and even misleading... When backed into a corner, the government’s apologists cite the capture of Zazi, the so-called New York subway bomber. However, in that case, [the Associated Press reported](http://bigstory.ap.org/article/nyc-bomb-plot-details-settle-little-nsa-debate) that the government could have easily stopped the plot without the NSA program, under authorities that comply with the Constitution. Sens. Ron Wyden and Mark Udall have been saying this for a long time. Both of the President’s hand-picked advisors on mass surveillance concur about the telephone records collection. The President’s Review Board issued a[report](http://www.whitehouse.gov/sites/default/files/docs/2013-12-12_rg_final_report.pdf) in which it stated “the information contributed to terrorist investigations by the use of section 215 telephony meta-data was not essential to preventing attacks,” The Privacy and Civil Liberties Oversight Board (PCLOB) also [issued a report](https://www.eff.org/deeplinks/2014/01/privacy-oversight-board-agrees-eff-mass-surveillance-illegal-and-must-end) in which it stated, “we have not identified a single instance involving a threat to the United States in which [bulk collection under Section 215 of the Patriot Act] made a concrete difference in the outcome of a counterterrorism investigation.” And in an amicus brief in EFF’s case First Unitarian Church of Los Angeles v. the NSA case, Sens. Ron Wyden, Mark Udall, and Martin Heinrich stated that, while the administration has claimed that bulk collection is necessary to prevent terrorism, they “have reviewed the bulk-collection program extensively, and none of the claims appears to hold up to scrutiny.”  Even former top NSA official John Inglis [admitted](http://boingboing.net/2014/01/13/nsa-official-mass-spying-has.html) that the phone records program has not stopped any terrorist attacks aimed at the US and at most, helped catch one guy who shipped about $8,000 to a Somalian group that the US has designated as a terrorist group but that has never even remotely been involved in any attacks aimed at the US.

**Multiple empirical examples prove we are never able to effectively act on intelligence.**

Patrick **Eddington**, 1/27/**2015**. Policy analyst in homeland security and civil liberties at the Cato Institute. “No, Mass Surveillance Won't Stop Terrorist Attacks,” Reason, http://reason.com/archives/2015/01/27/mass-surveillance-and-terrorism.

But would more mass surveillance have prevented the assault on the Charlie Hebdo office? Events from 9/11 to the present help provide the answer: 2009: Umar Farouk Abdulmutallab—i.e., the "underwear bomber"—nearly succeeded in downing the airline he was on over Detroit because, according to then-National Counterterrorism Center (NCC) director Michael Leiter, the federal [Intelligence Community](http://www.intelligence.gov/mission/member-agencies.html%22%20%5Ct%20%22_blank)(IC) failed "[to connect, integrate, and fully understand the intelligence](http://www.voanews.com/content/intelligence-officials-underwear-bomber-plane--82193462/111607.html%22%20%5Ct%20%22_blank)" it had collected. 2009: Army Major Nidal Hasan was able to conduct his deadly, Anwar al-Awlaki-inspired rampage at Ft. Hood, Texas, because the FBI [bungled](http://www.motherjones.com/politics/2013/08/nidal-hasan-anwar-awlaki-emails-fbi-fort-hood%22%20%5Ct%20%22_blank) its Hasan investigation. 2013: The Boston Marathon bombing happened, at least in part, because the CIA, Department of Homeland Security (DHS), FBI, NCC, and National Security Agency (NSA) failed to properly coordinate and share information about Tamerlan Tsarnaev and his family, associations, and travel to and from Russia in 2012. Those failures were detailed in a 2014 [report](https://www.emptywheel.net/wp-content/uploads/2014/04/140411-Marathon-IG-Report.pdf%22%20%5Ct%20%22_blank) prepared by the Inspectors General of the IC, Department of Justice, CIA, and DHS. 2014: The Charlie Hebdo and French grocery store attackers were not only known to French and U.S. authorities but one had [a prior terrorism conviction](http://www.theguardian.com/world/2015/jan/12/-sp-charlie-hebdo-attackers-kids-france-radicalised-paris%22%20%5Ct%20%22_blank) and another was [monitored for years](http://ktla.com/2015/01/10/charlie-hebdo-attacker-underwear-bomber-were-possibly-roommates-cnn/%22%20%5Ct%20%22_blank) by French authorities until less than a year before the attack on the magazine. No, mass surveillance does not prevent terrorist attacks. It’s worth remembering that the mass surveillance programs initiated by the U.S. government after the 9/11 attacks—the [legal ones](http://en.wikipedia.org/wiki/Patriot_Act%22%20%5Ct%20%22_blank) and the [constitutionally-dubious ones](http://en.wikipedia.org/wiki/Stellar_Wind%22%20%5Ct%20%22_blank)—were premised on the belief that bin Laden’s hijacker-terrorists were able to pull off the attacks because of a failure to collect enough data. Yet in their subsequent reports on the attacks, the [Congressional Joint Inquiry (2002)](https://www.fas.org/irp/congress/2002_rpt/911rept.pdf%22%20%5Ct%20%22_blank) and the [9/11 Commission](http://www.9-11commission.gov/report/911Report.pdf%22%20%5Ct%20%22_blank) found exactly the opposite. The data to detect (and thus foil) the plots was in the U.S. government’s hands prior to the attacks; the failures were ones of sharing, analysis, and dissemination. That malady perfectly describes every intelligence failure from Pearl Harbor to the present day. The Office of the Director of National Intelligence (created by Congress in 2004) was supposed to be the answer to the "failure-to-connect-the-dots" problem. Ten years on, the problem remains, the IC bureaucracy is bigger than ever, and our government is continuing to rely on mass surveillance programs that have failed time and again to stop terrorists while simultaneously undermining the civil liberties and personal privacy of every American. The quest to "[collect it all](http://www.theguardian.com/commentisfree/2013/jul/15/crux-nsa-collect-it-all%22%20%5Ct%20%22_blank)," to borrow a phrase from NSA Director Keith Alexander, only leads to the accumulation of masses of useless information, making it harder to find real threats and [costing billions](http://www.forbes.com/sites/kashmirhill/2013/10/07/the-nsas-hugely-expensive-utah-data-center-has-major-electrical-problems-and-basically-isnt-working/%22%20%5Ct%20%22_blank) to store. A recent Guardian editorial noted that such mass-surveillance myopia is spreading among European political leaders as well, despite the fact that "terrorists, from 9/11 to the Woolwich jihadists and the neo-Nazi Anders Breivik, have almost always come to the authorities’ attention before murdering." Mass surveillance is not only destructive of our liberties, its continued use is a virtual guarantee of more lethal intelligence failures. And our continued will to disbelieve those facts is a mental dodge we engage in at our peril.

**Oversaturation of data means that surveillance is not effective anyways.**

Patrick **Radden** Keefe, 3/12/**2006**. Century Foundation fellow, is the author of "Chatter: Dispatches from the Secret World of Global Eavesdropping.” “Can Network Theory Thwart Terrorists?” New York Times, http://www.trecento.com/lfriedl/tmp/forwiki/nwks.html.

Recent debates about the National Security Agency's warrantless-eavesdropping program have produced two very different pictures of the operation. Whereas administration officials describe a carefully aimed "terrorist surveillance program," press reports depict a pervasive electronic net ensnaring thousands of innocent people and few actual terrorists. Could it be that both the administration and its critics are right? One way to reconcile these divergent accounts — and explain the administration's decision not to seek warrants for the surveillance — is to examine a new conceptual paradigm that is changing how America's spies pursue terrorists: network theory. During the last decade, mathematicians, physicists and sociologists have advanced the scientific study of networks, identifying surprising commonalities among the ways airlines route their flights, people interact at cocktail parties and crickets synchronize their chirps. In the increasingly popular language of network theory, individuals are "nodes," and relationships and interactions form the "links" binding them together; by mapping those connections, network scientists try to expose patterns that might not otherwise be apparent. Researchers are applying newly devised algorithms to vast databases — one academic team recently examined the e-mail traffic of 43,000 people at a large university and mapped their social ties. Given the difficulty of identifying elusive terror cells, it was only a matter of time before this new science was discovered by America's spies. In its simplest form, network theory is about connecting the dots. Stanley Milgram's finding that any two Americans are connected by a mere six intermediaries — or "degrees of separation" — is one of the animating ideas behind the science of networks; the Notre Dame physicist Albert-Laszlo Barabasi studied one obvious network — the Internet — and found that any two unrelated Web pages are separated by only 19 links. After Sept. 11, Valdis Krebs, a Cleveland consultant who produces social network "maps" for corporate and nonprofit clients, decided to map the hijackers. He started with two of the plotters, Khalid al-Midhar and Nawaf Alhazmi, and, using press accounts, produced a chart of the interconnections — shared addresses, telephone numbers, even frequent-flier numbers — within the group. All of the 19 hijackers were tied to one another by just a few links, and a disproportionate number of links converged on the leader, Mohamed Atta. Shortly after posting his map online, Krebs was invited to Washington to brief intelligence contractors. Announced in 2002, Adm. John Poindexter's controversial Total Information Awareness program was an early effort to mine large volumes of data for hidden connections. But even before 9/11, an Army project called Able Danger sought to map Al Qaeda by "identifying linkages and patterns in large volumes of data," and may have succeeded in identifying Atta as a suspect. As if to underline the project's social-network principles, Able Danger analysts called it "the Kevin Bacon game." Given that the N.S.A. intercepts some 650 million communications worldwide every day, it's not surprising that its analysts focus on a question well suited to network theory: whom should we listen to in the first place? Russell Tice, a former N.S.A. employee who worked on highly classified Special Access Programs, says that analysts start with a suspect and "spider-web" outward, looking at everyone he contacts, and everyone those people contact, until the list includes thousands of names. Officials familiar with the program have said that before individuals are actually wiretapped, computers sort through flows of metadata — information about who is contacting whom by phone or e-mail. An unclassified National Science Foundation report says that one tool analysts use to sort through all that data is link analysis. The use of such network-based analysis may explain the administration's decision, shortly after 9/11, to circumvent the Foreign Intelligence Surveillance Court. The court grants warrants on a case-by-case basis, authorizing comprehensive surveillance of specific individuals. The N.S.A. program, which enjoys backdoor access to America's major communications switches, appears to do just the opposite: the surveillance is typically much less intrusive than what a FISA warrant would permit, but it involves vast numbers of people. In some ways, this is much less alarming than old-fashioned wiretapping. A computer that monitors the metadata of your phone calls and e-mail to see if you talk to terrorists will learn less about you than a government agent listening in to the words you speak. The problem is that most of us are connected by two degrees of separation to thousands of people, and by three degrees to hundreds of thousands. This explains reports that the overwhelming number of leads generated by the N.S.A. program have been false positives — innocent civilians implicated in an ever-expanding associational web. This has troubling implications for civil liberties. But it also points to a practical obstacle for using link analysis to discover terror networks: information overload. The National Counterterrorism Center's database of suspected terrorists contains 325,000 names; the Congressional Research Service recently found that the N.S.A. is at risk of being drowned in information. Able Danger analysts produced link charts identifying suspected Qaeda figures, but some charts were 20 feet long and covered in small print. If Atta's name was on one of those network maps, it could just as easily illustrate their ineffectiveness as it could their value, because nobody pursued him at the time. One way to make sense of these volumes of information is to look for network hubs. When Barabasi mapped the Internet, he found that sites like Google and Yahoo operate as hubs — much like an airline hub at Newark or O'Hare — maintaining exponentially more links than the average. The question is how to identify the hubs in an endless flow of records and intercepted communications. Scientists are using algorithms that can determine the "role structure" within a network: what are the logistical and hierarchical relationships, who are the hubs? The process involves more than just tallying links. If you examined the metadata for all e-mail traffic at a university, for instance, you might find an individual who e-mailed almost everyone else every day. But rather than being an especially connected or charismatic leader, this individual could turn out to be an administrator in charge of distributing announcements. Another important concept in network theory is the "strength of weak ties": the most valuable information may be exchanged by actors from otherwise unrelated social networks. Network academics caution that the field is still in its infancy and should not be regarded as a panacea. Duncan Watts of Columbia University points out that it's much easier to trace a network when you can already identify some of its members. But much social-network research involves simply trawling large databases for telltale behaviors or activities that might be typical of a terrorist. In this case the links among people are not based on actual relationships at all, but on an "affiliation network," in which individuals are connected by virtue of taking part in a similar activity. This sort of approach has been effective for corporations in detecting fraud. A credit-card company knows that when someone uses a card to purchase $2 of gas at a gas station, and then 20 minutes later makes an expensive purchase at an electronics store, there's a high probability that the card has been stolen. Marc Sageman, a former C.I.A. case officer who wrote a book on terror networks, notes that correlating certain signature behaviors could be one way of tracking terrorists: jihadist groups in Virginia and Australia exercised at paint-ball courses, so analysts could look for Muslim militants who play paint ball, he suggests. But whereas there is a long history of signature behaviors that indicate fraud, jihadist terror networks are a relatively new phenomena and offer fewer reliable patterns. There is also some doubt that identifying hubs will do much good. Networks are by their very nature robust and resistant to attack. After all, while numerous high ranking Qaeda leaders have been captured or killed in the years since Sept. 11, the network still appears to be functioning. "If you shoot the C.E.O., they'll hire another one," Duncan Watts says. "The job will still get done."

### OFFENSE

**NSA surveillance undermines US-EU intelligence cooperation.**

Kristin **Archick**, 12/1/**2014**. Specialist in European Affairs @ Congressional Research Service. “U.S.-EU Cooperation Against Terrorism,” CRS Report, https://www.fas.org/sgp/crs/row/RS22030.pdf.

The September 11, 2001, terrorist attacks on the United States and the subsequent revelation of Al Qaeda cells in Europe gave new momentum toEuropean Union (EU**)** initiatives to combat terrorism and improve police, judicial, and intelligence cooperation among its member states. Other deadly incidents in Europe, such as the Madrid and London bombings in 2004 and 2005 respectively, injected further urgency into strengthening EU counterterrorism capabilities and reducing barriers among national law enforcement authorities so that information could be meaningfully shared and suspects apprehended expeditiously. Among other steps, the EU has established a common definition of terrorism and a common list of terrorist groups, an EU arrest warrant, enhanced tools to stem terrorist financing, and new measures to strengthen external EU border controls and improve transport security. Over the years, the EU has also encouraged member states to devote resources to countering radicalization and terrorist recruitment, issues that have been receiving renewed attention in light of growing European concerns about the possible threats posed by European fighters returning from the conflicts in Syria and Iraq. Promoting law enforcement and intelligence cooperation with the United States has been another top EU priority since 2001. Washington has largely welcomed enhanced counterterrorism cooperation with the EU, which has led to a new dynamic in U.S.-EU relations by fostering dialogue on law enforcement and homeland security issues previously reserved for bilateral discussions. Contacts between U.S. and EU officials on police, judicial, and border control policy matters have increased substantially and a number of new U.S.-EU agreements have also been reached**;** these include information-sharing arrangements between the United States and EU police and judicial bodies, two U.S.-EU treaties on extradition and mutual legal assistance, and accords on container security and airline passenger data. In addition, the United States and the EU have been working together to curb terrorist financing and to strengthen transport security**.** Nevertheless, some challenges persist in fostering closer U.S.-EU cooperation in these fields. Among the most prominent and long-standing are data privacy and data protection issues. The negotiation of several U.S.-EU information-sharing agreements, from those related to tracking terrorist financial data to sharing airline passenger information, has been complicated by EU concerns about whether the United States could guarantee a sufficient level of protection for European citizens’ personal data. EU worries about U.S. data protection safeguards and practices have been further heightened by the unauthorized disclosures since June 2013 of U.S. National Security Agency (NSA) surveillance programs and subsequent allegations of U.S. collection activities in Europe (including reports that U.S. intelligence agencies have monitored EU diplomatic offices and German Chancellor Angela Merkel’s mobile phone). Other issues that have led to periodic tensions include detainee policies, differences in the U.S. and EU terrorist designation lists, and balancing measures to improve border controls and border security with the need to facilitate legitimate transatlantic travel and commerce. Congressional decisions related to intelligence-gathering reforms, data privacy, border controls, and transport security may affect how future U.S.-EU counterterrorism cooperation evolves. In addition, given the European Parliament’s growing influence in many of these policy areas, Members of Congress may be able to help shape the Parliament’s views and responses through ongoing contacts and the existing Transatlantic Legislators’ Dialogue (TLD). This report examines the evolution of U.S.-EU counterterrorism cooperation and the ongoing challenges that may be of interest in the 113 th Congress.

**NSA surveillance undermines intelligence cooperation with allies. Means terror is harder to fight.**

**Washington Examiner**, 5/12/**2015**.  Charles Hoskinson. “NSA spying undermines global efforts to fight terrorism,” http://www.washingtonexaminer.com/nsa-spying-undermines-global-efforts-to-fight-terrorism/article/2564341.

Surveillance by the National Security Agency is undermining intelligence cooperation with allies as the U.S. fights the growing threat of Islamic extremists. The June 2013 revelations of NSA spying by contractor Edward Snowden are having repercussions, particularly in Germany, even as many allies come to appreciate the need to keep closer tabs on potential terrorists in the wake of deadly attacks in Europe and North America. Reports in the German media that the NSA asked the German intelligence service BND to [spy on Siemens](http://www.thelocal.de/20150510/nsa-asked-germany-to-spy-on-siemens%22%20%5Ct%20%22_blank), a German company suspected of dealing with Russia, as well as other European companies and politicians, have rattled the government of Chancellor Angela Merkel, which is already dealing with demands from a parliamentary investigation into Snowden's allegations. The BND last week reportedly [stopped sharing Internet surveillance data](http://www.thelocal.de/20150507/germany-restricts-cooperation-with-nsa-reports%22%20%5Ct%20%22_blank) with the NSA, the latest fallout from the scandal. Efforts to smooth out the bumps caused by Snowden have contributed to some of the fallout, as European parliaments become more assertive at overseeing their own intelligence agencies, which often are full partners in the NSA's activities.

**EU intelligence cooperation is key to effective prevention of terrorism but NSA surveillance deters cooperation.**

George X. **Protopapas**, December **2014**. Analyst at the Research Institute for European and American Studies (RIEAS) and member of International Institute for Middle-East and Balkan Studies. “European Union’s Intelligence Cooperation: A Failed Imagination?” Journal of Mediterranean and Balkan Intelligence, 4.2, http://www.academia.edu/10996393/European\_Union\_s\_Intelligence\_Cooperation\_A\_Failed\_Imagination.

In addition, Snowden’s case provoked confrontation among the euro Atlantic partners as the National Security Agency (NSA) spying revelations broke the ties of trust between USA and EU Member- States. For example, the German parliament decided the establishment of a special Bundestag committee in order to investigate the global spying activities of theAmerican National Security Agency (NSA) and European counterparts such as the GCHQ in the UK. Furthermore, the committee will likely examine if the German intelligence agencies were either aware of, or complicit in, the gathering of people’s data.18 The threat of the spread of Islamic extremism in the European continent desperately demands a close cooperation of the intelligence communities of USA, the European Union and the European states. The European Islamist extremists, who fight in the war of Syria against the president Bashar Assad pose a very dangerous threat, when they return in their European hometowns. The intelligence cooperation and sharing between USA and the European allies increase the possibilities for an effective identification and the prevention of terrorist, terrorism attacks and the organized crime’s illegal activities**.** In addition, the links between Islamic terrorist cells and organized crime groups pose a more combined threat to European security, as the terrorists and criminals has a boarder field of cooperation (illegal trade weapons, smuggling, human trafficking, drugs, extortion, adductions for money etc.)

**Smart Power is Necessary to Moderate Hard Power and Harden Soft Power – the AFF is necessary to deploy multiple strategies to defeat terrorism, only the AFF solves your DA**

 (Joseph **Nye**, teaches at Harvard, Leadership Expert, “Smart Power,” Harvard Business Review, November **2008**, pg nexis//ef)

Q: Can a democracy really defeat terrorism with soft power? A: Let me be clear: There are definitely times when you have to use hard power. Think back to the 1990s, when the Taliban government was providing refuge to Al Qaeda in Afghanistan and President Bill Clinton tried to solve that problem diplomatically. He was trying to persuade the Taliban, and the approach failed. The net result was that the United States didn't do enough to destroy the terrorist havens the Taliban had created for Al Qaeda. That's a case when soft power did not work and actually delayed the United States from acting as it probably should have, with more hard power. So soft power can be counterproductive if it prevents you from doing what needs to be done. But if the way you use your hard power antagonizes the mainstream, you will find that the Osama bin Ladens of this world are able to recruit more people with their soft power than you are able to deter with your hard power. Today the United States is involved in a battle for the hearts and minds of mainstream Muslims. Americans have to use soft power to prevent them from being recruited by terrorists. That's why Iraq was a serious mistake. President Bush tried to produce democracy in Iraq through hard power alone, and the negative effect has set America back. Yes, coercion, hard power, is absolutely necessary for a democracy to defeat terrorism. But at times, attraction, soft power, is the more critical component. Soft power can draw young people toward something other than the terrorist alternative. You can't do that through coercion. Q: You say soft power and hard power are both necessary. Yet you dedicate your latest book to your wife, Molly, "who leads with soft power." A: I do prefer soft power to hard power. But you have to realize that soft power is not good per se; it has to be put to good purpose. The ability to attract others has been possessed by some evil people: Hitler, Stalin, Mao, bin Laden. Jim Jones, who started Peoples Temple, used manipulative soft power to get over 900 people to commit suicide by drinking poisoned Kool-Aid. His followers believed that he was a guru who had the ultimate word on their salvation. As I said, soft or hard, power is simply an instrument. You can argue that soft power is slightly preferable to hard because it gives more freedom to the person who is its object. If I want to steal your money and I take out a gun and shoot you, that's hard power, you have no choice in the matter. If I try to convince you that I'm a guru and that you should give me your bank account number, presumably you could choose to resist me. Q: Teddy Roosevelt famously said that we must speak softly and carry a big stick. Was he talking about soft or hard power? A: Roosevelt was the epitome of smart power: the combination of soft and hard power in the right mix in the appropriate context. The problems facing America and the world today are going to need lots of smart power, and leaders who want to understand it could do worse than to study Teddy Roosevelt. He was acutely alert to the use of hard power, look at his fondness for the military. But he was also aware of the importance of soft power. Roosevelt's chief motivation in negotiating crucial treaties such as the Portsmouth Treaty of 1905, which ended the war between Russia and Japan, was to make the United States more appealing. When he sent the Great White Fleet, the new American navy, on a tour around the world, he wanted both to display the country's new military power and to advertise America as a force for good. In effect, he used a hard-power tool, the navy, as a soft-power symbol. This kind of exercise of smart power is why Teddy Roosevelt often ends up on lists of the best half dozen or so presidents in U.S. history.

## A2 - Supreme Court CP:

Court action requires outside enforcement – puts them in a double bind. Either the counterplan can’t do anything or the permutation solves best.

(David O’Brien, 2003, professor of Government and Foreign Affairs at the University of Virginia, 2003 (Storm Center: The Supreme Court in American Politics Sixth Edition pg 314)

Denied the power of the sword or the purse, the Court must cultivate its institutional prestige. The power of the Court lies in the persuasiveness of its rulings and ultimately rests with other political institutions and public opinion. As an independent force, the Court has no chance to resolve great issues of public policy. Dred Scott v. Sandford (i857) and Brown v. Board of Education (i954) illustrate the limitations of Supreme Court policy-making. The "great folly," as Senator Henry Cabot Lodge characterized Dred Scott, was not the Court's interpretation of the Constitution or the unpersuasive moral position that blacks were not persons under the Constitution. Rather, "the attempt of the Court to settle the slavery question by judicial decision was simple madness." As Lodge explained: Slavery involved not only the great moral issue of the right of one man to hold another in bondage and to buy and sell him but it involved also the foundations of a social fabric covering half the country and caused men to feel so deeply that it finally brought them beyond the question of nullification to a point where the life of the Union was at stake and a decision could only be reached by war. A hundred years later, political struggles within the country and, notably, presidential and congressional leadership in enforcing the Court's school desegregation ruling saved the moral appeal of Brown from becoming another "great folly."

Courts issue decisions without teeth because they know they can’t enforce them

(Christopher Smith, **19**93, Associate Professor of Criminal Justice at Michigan State University, Courts, Politics and the Judicial Process p. 296).

Because the judicial branch is a component of the political system rather than a separate entity, judicial policy-making is affected by interactions with other branches of government. When courts issue decisions, other political entities react, especially if judicial decisions conflict with the policy goals of other political institutions. Judges are cognizant of the power of other governmental and political actors, and so judicial decisions may be limited by anticipation of external reactions.

Court action doesn’t shield politics

(Lindsay Harrison, Lecturer in Law, University of Miami Law School and Stephen I. Vladeck, Associate Professor of Law at the University Of Miami School Of Law, is a national expert in national security law and the Detention Power., Does the Court Act as "Political Cover" for the Other Branches? November 18, **2005** legaldebate.blogspot.com)

While the Supreme Court may have historically been able to act as political cover for the President and/or Congress, that is not true in a world post-Bush v. Gore. The Court is seen today as a politicized body, and especially now that we are in the era of the Roberts Court, with a Chief Justice hand picked by the President and approved by the Congress, it is highly unlikely that Court action will not, at least to some extent, be blamed on and/or credited to the President and Congress**.** The Court can still get away with a lot more than the elected branches since people don't understand the technicalities of legal doctrine like they understand the actions of the elected branches; this is, in part, because the media does such a poor job of covering legal news. Nevertheless**,** it is preposterous to argue that the Court is entirely insulated from politics, and equally preposterous to argue that Bush and the Congress would not receive at least a large portion of the blame for a Court ruling that, for whatever reason, received the attention of the public.

Controversial decisions spark political repercussions

 [Jacob D. Friedman, Professor of Law, NYU “The Politics of Judicial Review,” Texas Law Review, December 2005]

 [\*269] Onlyrecently - sparked, as is typically the case, by a spate of contentious Supreme Court decisions - have many begun to see that constitutional judging cannot be insulated from "ordinary" politics in quite the way theory demands. 60 Recognition of the relationship between law and politics is on the rise. 61 Still, it is apparent that normative scholars remain uncomfortable with the implications of positive scholarship, even as they take notice. Legal theorists indicate their discomfort by moving quickly from positive assertions about the relationship between law and politics to conclusions that positive scholars would suggest simply are implausible. 62 To take a frequent example, some normative scholars look to the political branches to correct errant judges 63 without considering whether there is any reason to think the political branches are likely to do so at present. 64

Court decisions historically have sparked partisan battles, means you link to your politics harder

 [Jacob D. Friedman, Professor of Law, NYU “The Politics of Judicial Review,” Texas Law Review, December 2005]

This Part examines how the necessity of separating law from politics became a central tenet of constitutional theory. By explaining how we have arrived at the present, history opens space for understanding our world differently. 37 What began as a rhetorical response by opponents of particular **Supreme** Court decisions has become a fixture of theories of judicial review. This instinct is not wrong: There clearly is a longstanding and central societal belief that law and politics are not the same and should not be considered as such. At the same time, however, history suggests that a strict separation of law and politics is - and always has been - implausible. Throughout American history, views about judicial review have been shaped more by political responses to judicial decisions in heated controversies than by any jurisprudential theory of what it means to live under a constitution. This was true during the first great clash of will between the courts and the "political" branches following the election of 1800. All the famous partisan skirmishes of that era - the Marbury litigation, the repeal of the **Circuit** Judges Act, and the impeachment of Samuel Chase - were motivated by the Federalist party's withdrawal to the judiciary and the immediate political challenge this withdrawal posed to Republican policy. 38 Nonetheless, these disputes played out as debates about judicial independence, popular accountability, and the separation of politics and law. 39

Allowing too much power to courts establishes a tyrannical judiciary that the Congress has no part in, kills democracy.

Feere 2009, Legal Policy Analyst at the Center for Immigration Studies (Jon, “Plenary Power: Should Judges Control U.S. Immigration Policy?” Center for Immigration Studies, February, <http://www.cis.org/plenarypower>)

This attempt at erasing the plenary power must not go unaddressed. Without the plenary power doctrine, the judicial branch — rather than elected members of the political branches — would be in control of much of the nation’s immigration system as courts apply constitutional or “constitutional-like” standards to all exclusion and deportation cases. Theoretically, the ability of the political branches to determine who should be welcomed to our shores, who should stay, and who should go could be almost completely abolished in favor of a judge-regulated immigration system. Immigration policy decisions would be less likely to be shaped through the political process and would therefore lessen the power of the electorate to control the nation’s future and to decide who we are as a nation and who we will be. Furthermore, detailed political considerations appropriate to expert agency officials may not be adequately considered by judges who are generally without the requisite immigration expertise. This is good for neither citizens nor aliens. Fortunately, the plenary power doctrine rests on a solid foundation and will remain strong, provided that the political branches steadfastly rebuff any attempts to weaken it.

## A2 – XO CP

Only a strong, active Congress can garner the public support essential for US global leadership

Robert Zoellick, “Congress and the Making of US Foreign Policy,” Survival, Winter **2000**, p. 23)

Today**,** America's leaders must garner public support for a redirected US role in the world. The task is not just to rise to an immediate challenge or counter a specific threat. The US has a perpetual foreign-policy mission that must be exercised in many quarters of the globe, every day, in countless ways. This mission necessitates the complex management of alliances and coalitions. It requires overhauling old institutions to perform new tasks. As part of a democracy and a republic, it is inevitable--indeed vital--that the US Congress be involved in deciding these questions of strategy, direction, commitment, and allocation of resources. Without Congressional support, the Executive cannot sustain long-term policies. Engagement of the Congress is also a key step in drawing in the public.

Strong Congressional power is essential in restraining executive actions that threaten human rights protections globally and the civil liberties of US citizens

Leon Fuerth, May 20, **2004** Financial Times, http://www.forwardengagement.org/index.php?option=com\_content&task=view&id=17&Itemid=46)

The extreme abuses of prisoners in Iraqwere no mere anomaly. They were the predictable consequence of the unchecked exercise of power, beginning not with military prison guards or intelligence contractors but at the highest levels of the US government. Following the terrorist attacks of September 11 2001**,** the administration created a space where neither the law of the land nor the law of nations operates. This is a region where only the will of the president holds sway, as elaborated by the attorney-general. It is a domain where the power of the executive is not subject to effective monitoring or to legal intervention. Under this system, the good name of US soldiers and of the nation has been entrusted to people who can invent the rules as they go along. That is one reason why legitimate questions are being posed about whether the practices used in Iraq's prisons were based on the earlier treatment of detainees in Afghanistan or at Guantanamo Bay**.** It is a basic principle of leadership that responsibility must be linked inseparably to authority**.** Even if those at the bottom of the chain of command acted entirely on their own, responsibility for their actions does not end with them, but extends upwards to their superiors. If it turns out that their superiors let it be known, by word or gesture, that they sanctioned this behaviour, then they, too, are complicit. Moreover, accountability cannot stop even with the military leadership or the intelligence managers. It continues on, inexorably, to those at much higher levels who are responsible for establishing the framework within which these events occurred, even if they were totally unaware of them until recently. What has happened in Iraq took place according to principles that are toxic for democracies. The doctrines of executive authority propounded by the Bush administration endanger not only the human rights of foreigners, but also the civil liberties of Americans. Remember that if the Supreme Court rules in favour of the administration in the case of Jose Padilla, detained on suspicion of plotting with al-Qaeda, it will mean that American citizens as well as foreigners can be locked away beyond the reach of US justice. The executive branch is operating at or beyond its constitutional limits, without effective counteraction by either of the other two branches of government. Our federal judiciary is increasingly beholden to the conservative philosophy of successive Republican administrations. Congress, in fact, is potentially more effective than the courts because it has far more flexible powers for engaging the administration in point-by-point oversight. But Congress is much weakened as the result of a long series of retreats**.** Members of Congress who decry the loss of their exclusive constitutional power to declare war must remember that it is Congress that let this power slide away**.** Members of Congress who believe that the institution is being railroaded into hasty action, as it was in the case of the Patriot Act, must acknowledge that they agreed to the voting procedures that allowed this to happen. Members of Congress who deplore flaws in the US national intelligence system need to recognise that they had the authority to investigate before rather than after the nation suffered the consequences. And members of Congress of both parties, who are now angry that they were the last to know what was going on in Iraq, must realise that this negligent treatment by the executive is just the latest episode in an abusive relationship that Congress itself has helped enable. Repairing that relationship is something only Congress can do. It must effectively use the power of the purse as a choke-chain. It must demand timely and adequate information from the executive, so as to make possible vigorous oversight. It must not allow the executive to create regions in which its use of public resources cannot be challenged by those who appropriate them. Only Congress is in a position to fill the constitutional void that has been created by an administration eager to expand its powers, and a judiciary unwilling to challenge them. Congress must use the bipartisan anger its members now feel as the starting point for urgently needed bipartisan action to restore the balance of forces in our government.

**Perm do both—Congress can enact legislation granting Obama the power to do the plan**

13 (Rep. Paul Gosar R-AZ, Breitbart.com, *PRESIDENTIAL GUN BAN: EXECUTIVE POWER OR UNCONSTITUTIONAL POWER GRAB?*, 1/10/2013, http://www.breitbart.com/Big-Government/2013/01/10/presidential-gun-ban-executive-unconstitutional)//LA

Let's focus on the supposed authority of the President to simply enact laws by the stroke of his pen. Article I Section I of the Constitution vests all legislative powers in Congress. All. None are given to the President or the Courts. All government acts need to be evaluated on whether they are consistent with our Constitution. The executive branch has the Constitutional responsibility to execute the laws passed by Congress. It is well accepted that an executive order is not legislation nor can it be. An executive order is a directive that implements laws passed by Congress. The Constitution provides that the president "take care that the laws be faithfully executed." Article II, Section 3, Clause 5. Thus, executive orders can only be used to carry out the will of Congress. If we in Congress have not established the policy or authorization by law, the President can't do it unilaterally. In order for the President to enact a gun ban by executive order, he would have to have such power given to him by Congress(we already established that the Constitution does not give him that power). Any unilateral action by the President must rely on either a constitutional authority or a statutory power from Congress.What laws exist for the President to enact gun bans by executive order? The Attorney General is authorized under the Gun Control Act (GCA) to regulate the import of firearms if it is “generally suitable" for or readily adaptable to sporting purpose. Thus, the Attorney General could use a “sporting purposes test” by which he can determine the types of firearms that can be imported into the United States. But this law does not authorize a gun ban or affect domestic manufacture and sales. So it provides no Congressional basis for Mr. Biden or the President to create a gun ban. President Obama may point out that President Clinton issued an executive order (No. 12938) in 1994 where some Chinese firearms and ammunition were restricted from import. If that occurred, it would have been a serious overreach of the application of the authority set forth in that Executive Order, which President Clinton said at the time was being implemented under the International Economic Powers Act, the National Emergencies Act, and the Arms Export Control Act. As stated in the Order itself, "the proliferation of nuclear, biological, and chemical weapons (‘‘weapons of mass destruction’’) and of the means of delivering such weapons, constitutes an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States, and hereby declare a national emergency to deal with that threat." President Clinton Executive Order 12938 (1994). How that justification, based on large scale weapons of mass destruction, could be interpreted to include Chinese hand guns is unclear and problematic. Indeed, any fair reading of those laws would conclude they could not support a domestic gun ban. The bottom line is that there is no Congressional authority enacted that would allow the President to take unilateral actionto make it unlawful for individuals to transfer or possess a rifle, handgun or other gun or a large capacity ammunition feeding device. Nor is there any Constitutional power under Article II (the power of being the “Commander in Chief”) that allows this. If the President wants a gun ban or ammunition ban he has to first revise the Second Amendment, which is not easy, but possible. I would, of course, oppose that, as would most Americans. But that is at least a lawful and Constitutional means to achieve this.

**Executive-legislative coop solves best**

(Stuart E. Eizenstat, JD Harvard Law School, Jimmy Carter’s Chief Domestic Policy Advisor, Bill Clinton’s Deputy Secretary of the Treasury, Undersecretary of State for Economic, Business, and Agricultural Affairs, and Undersecretary of Commerce, also was United States Ambassador to the EU from 1993-6, Very qualified individual, *Sanctions By Stuart E. Eizenstat, Under Secretary of State for Economic, Business and Agricultural Affairs,* 9/8/**1998**, http://wpobw-res8.wpafb.af.mil/Pubs/Indexes/Vol%2021\_2/Eizenstat.pdf)//LA

Most importantly. Mr. Chairman. our foreign policy is most effective when it reflects cooperation and consultation between the Administration and the Congress. The decision to apply economic sanctions--or to lift or waive potential measures or those already in place--should reflect a relationship of comity between the Executive and Legislative branches. We must respect the particular role that each branch plays in making foreign policy. The Congress shares with the Executive Branch the responsibility for helping shape our foreign policy. In the realm of economic measures. Congress has a clear role which we respect. At the same time. the President is responsible for conducting the nation's foreign policy and for dealing with foreign governments. Thus. sanctions legislation needs to take into account these respective responsibilities. Sanctions legislation should set forth broad objectives but should allow the flexibility to respond to a constantly changing and evolving situation and give the President the necessary authority to tailor specific U.S. actions to meet our foreign policy objectives. As Secretary Albright has said, there can be no "cookie-cutter," no "one size fits all "approach to sanctions policy. Comity between branches of government is expressed in sanctions legislation through the inclusion of appropriate Presidential flexibility. including broad waiver authority. Congress speaks. but ultimately only the President can weigh all the foreign policy issues at stake at any given moment and tailor our response to a specific situation. Congress's power of the purse and of oversight are more-than-adequate tools with which to shape our foreign policy: but those powers should not be used to hobble the President's authority to act with discretion and alacrity. As a matter of general principle. legislation that empowers the President to impose economic sanctions should also empower him not to act and to waive or suspend measures already in place if it is in the national interest. If our policies are to be effective. we must work together to see that our use of sanctions is appropriate. coherent. and designed to gain international support. There must be more structured. systematic discussions between the Executive Branch and Congress when sanctions are an option**.** The efforts of this Task Force and this hearing itself are. Mr. Chairman. a good example of the way our two branches of government should work together to design an effective and principled sanctions policy that can be truly effective in advancing our broad national interests.

## A2 – Cap K

**The alt alone is coopted – you need a multitude of standpoints means the perm solves**

**Carroll 2010 –** \*founding director of the Social Justice Studies Program at the University of Victoria(William, “Crisis, movements, counter-hegemony: in search of the new,” Interface 2:2, 168-198)

Just as hegemony has been increasingly organized on a transnational basis – through the globalization of Americanism, the construction of global governance institutions, the emergence of a transnational capitalist class and so on (Soederberg 2006; Carroll 2010) – counter-hegemony has also taken on transnational features that go beyond the classic organization of left parties into internationals. What Sousa Santos (2006) terms the rise of a global left is evident in specific movementbased campaigns, such as the successful international effort in 1998 to defeat the Multilateral Agreement on Investment (MAI); in initiatives such as the World Social Forum, to contest the terrain of global civil society; and in the growth of transnational movement organizations and of a ‘democratic globalization network’, counterpoised to neoliberalism’s transnational historical bloc, that address issues of North-South solidarity and coordination (Smith 2008:24). As I have suggested elsewhere (Carroll 2007), an incipient war of position is at work here – a bloc of oppositional forces to neoliberal globalization encompassing a wide range of movements and identities and that is ‘global in nature, transcending traditional national boundaries’ (Butko 2006: 101). These moments of resistance and transborder activism do not yet combine to form a coherent historical bloc around a counter-hegemonic project. Rather, as Marie-Josée Massicotte suggests, ‘we are witnessing the emergence and re-making of political imaginaries…, which often lead to valuable localized actions as well as greater transborder solidarity’ (2009: 424). Indeed, Gramsci’s adage that while the line of development is international, the origin point is national, still has currency. Much of the energy of anti-capitalist politics is centred within what Raymond Williams (1989) called militant particularisms – localized struggles that, ‘left to themselves … are easily dominated by the power of capital to coordinate accumulation across universal but fragmented space’ (Harvey 1996: 32). Catharsis, in this context, takes on a spatial character. The scaling up of militant particularisms requires ‘alliances across interrelated scales to unite a diverse range of social groupings and thereby spatialize a Gramscian war of position to the global scale’ (Karriem 2009: 324). Such alliances, however, must be grounded in local conditions and aspirations. Eli Friedman’s (2009) case study of two affiliated movement organizations in Hong Kong and mainland China, respectively, illustrates the limits of transnational activism that radiates from advanced capitalism to exert external pressure on behalf of subalterns in the global South. Friedman recounts how a campaign by the Hong Kong-based group of Students and Scholars Against Corporate Misbehavior to empower Chinese mainland workers producing goods for Hong Kong Disneyland failed due to the lack of local mobilization by workers themselves. Yet the same group, through its support for its ally, the mainland-based migrant workers’ association, has helped facilitate self-organization on the shop floor. In the former case, well-intentioned practices of solidarity reproduced a paternalism that failed to inspire local collective action; in the latter, workers taking direct action on their own behalf, with external support, led to ‘psychological empowerment’ and movement mobilization (Friedman 2009: 212). As a rule, ‘the more such solidarity work involves grassroots initiatives and participation, the greater is the likelihood that workers from different countries will learn from each other’, enabling transnational counter-hegemony to gain a foothold (Rahmon and Langford 2010: 63).

**Reformism from within solves**

**Dixon 2001 –** Activist and founding member of Direct Action Network Summer, Chris, “Reflections on Privilege, Reformism, and Activism”, Online

To bolster his critique of 'reformism,' for instance, he critically cites one of the examples in my essay: demanding authentic we need revolutionary strategy that links diverse, everyday struggles and demands to long-term radical objectives, without sacrificing either. Of course, this isn't to say that every so-called 'progressive' ballot initiative or organizing campaign is necessarily radical or strategic. Reforms are not all created equal. But some can fundamentally shake systems of power, leading to enlarged gains and greater space for further advances. Andre Gorz, in his seminal book Strategy for Labor, refers to these as "non-reformist" or "structural" reforms. He contends, "a struggle for non-reformist reforms--for anti-capitalist reforms--is one which does not base its validity and its right to exist on capitalist needs, criteria, and rationales. A non-reformist reform is determined not in terms of what can be, but what should be." Look to history for examples: the end of slavery, the eight-hour workday, desegregation. All were born from long, hard struggles, and none were endpoints. Yet they all struck at the foundations of power (in these cases, the state, white supremacy, and capitalism), and in the process, they created new prospects for revolutionary change. Now consider contemporary struggles: amnesty for undocumented immigrants, socialized health care, expansive environmental protections, indigenous sovereignty. These and many more are arguably non-reformist reforms as well. None will single-handedly dismantle capitalism or other systems of power, but each has the potential to escalate struggles and sharpen social contradictions. And we shouldn't misinterpret these efforts as simply meliorative incrementalism, making 'adjustments' to a fundamentally flawed system.

**Perm – Use current financial structures to challenge capitalism. Alliances with members of the ruling class are essential to defeating capitalism**

**Hart 2001** Faculty of University of Aberdeen, Scotland(Keith, “Money in an unequal world”, 9/1/01, Anthropological Theory 1:307, Sage SW)

It may be that nothing short of world revolution will lead us out of the present impasse. A ﬁrst step in this direction, however, would be to form an anthropological vision of our moment in history that is genuinely global and open to the economic currents shaping the world today. In pursuit of such a vision, the argument begins with the contradiction between agrarian civilization and the machine revolution of which capitalism is both the source and the outcome. My label for the convergence of machines and money at this time is ‘virtual capitalism’. Just as the factory proletariat once struggled for the value generated by the ﬁrst industrial revolution, some of us will have to engage with governments and corporations for the value generated by means of the internet. In order to do so, we need to grasp the potential of the forms of money and exchange emerging under these circumstances, with a view to developing ﬁnancial instruments that serve the interests of each of us and people in general. A major strategic consideration is whether the unﬁnished middle-class revolution against the old regime is still necessary to democratic progress and, if so, where that leaves hitherto failed attempts to bring about the end of capitalism in the name of the working class. Whatever these terms may mean today, a major conclusion drawn here is that the middle classes are still central to the struggle against inequality, not least because of their privileged access to the new information technologies. In Marxist terms, the petty bourgeoisie have traditionally swung between the powerful and the powerless, often adopting the interests of the dominant classes as their own, but sometimes leading the movement for greater equality and freedom. My arguments are addressed principally to those middle-class individuals who may still be capable of stirring themselves on behalf of the general human interest. It is unlikely that the demise of capitalism is a plausible aim at this time; rather,

**Representations of capitalism as hegemonically dominant preclude the realization of actual social change. Changing this view is a pre-requisite to the alt.**

**Gibson-Graham 2006** – J.K., pen name shared by feminist economic geographers Julie Graham and Katherine Gibson (“The End of Capitalism (As We Knew It): A Feminist Critique of Political Economy”, pg 2-5)

The End of Capitalism (As We Knew It) problematizes "capitalism" as an economic and social descriptor.4 Scrutinizing what might be seen as throwaway uses of the term - passing references, for example, to the capitalist system or to global capitalism - as well as systematic and deliberate attempts to represent capitalism as a central and organizing feature of modern social experience, the book selectively traces the discursive origins of a widespread understanding: that capitalism is the hegemonic, or even the only, present form of economy and that it will continue to be so in the proximate future. It follows from this prevalent though not ubiquitous view that noncapitalist economic sites, if they exist at all, must inhabit the social margins; and, as a corollary, that deliberate attempts to develop noncapitalist economic practices and institutions must take place in the social interstices, in the realm of experiment, or in a visionary space of revolutionary social replacement. Representations of capitalism are a potent constituent of the anticapitalist imagination, providing images of what is to be resisted and changed as well as intimations of the strategies, techniques, and possibilities of changing it. For this reason, depictions of "capitalist hegemony" deserve a particularly skeptical reading. For in the vicinity of these representations, the very idea of a noncapitalist economy takes the shape of an unlikelihood or even an impossibility. It becomes difficult to entertain a vision of the prevalence and vitality of noncapitalist economic forms, or of daily or partial replacements of capitalism by noncapitalist economic practices, or of capitalist retreats and reversals. In this sense, "capitalist hegemony" operates not only as a constituent of, but also as a brake upon, the anticapitalist imagination.5 What difference might it make to release that brake and allow an anticapitalist economic imaginary to develop unrestricted?6 If we were to dissolve the image that looms in the economic foreground, what shadowy economic forms might come forward? In these questions we can identify the broad outlines of our project: to discover or create a world of economic difference, and to populate that world with exotic creatures that become, upon inspection, quite local and familiar (not to mention familiar beings that are not what they seem). The discursive artifact we call "capitalist hegemony" is a complex effect of a wide variety of discursive and nondiscursive conditions.7 In this book we focus on the practices and preoccupations of discourse, tracing some of the different, even incompatible, representations of capitalism that can be collated within this fictive summary representati n. These depictions have their origins in the diverse traditions of Marxism, classical and contemporary political economy, academic social science, modern historiography, popular economic and social thought, western philosophy and metaphysics, indeed, in an endless array of texts, traditions and infrastructures of meaning. In the chapters that follow, only a few of these are examined for the ways in which they have sustained a vision of capitalism as the dominant form of economy, or have contributed to the possibility or durability of such a vision. But the point should emerge none the less clearly: the virtually unquestioned dominance of capitalism can be seen as a complex product of a variety of discursive commitments, including but not limited to organicist social conceptions, heroic historical narratives, evolutionary scenarios of social development, and essentialist, phallocentric, or binary patterns of thinking. It is through these discursive figurings and alignments that capitalism is constituted as large, powerful, persistent, active, expansive, progressive, dynamic, transformative; embracing, penetrating, disciplining, colonizing, constraining; systemic, self-reproducing, rational, lawful, self-rectifying; organized and organizing, centered and centering; originating, creative, protean; victorious and ascendant; selfidentical, self-expressive, full, definite, real, positive, and capable of conferring identity and meaning.8 The argument revisited: it is the way capitalism has been "thought" that has made it so difficult for people to imagine its supersession.9 It is therefore the ways in which capitalism is known that we wish to delegitimize and displace. The process is one of unearthing, of bringing to light images and habits of understanding that constitute "hegemonic capitalism" at the intersection of a set of representations. This we see as a first step toward theorizing capitalism without representing dominance as a natural and inevitable feature of its being. At the same time, we hope to foster conditions under which the economy might become less subject to definitional closure. If it were possible to inhabit a heterogeneous and open-ended economic space whose identity was not fixed or singular (the space potentially to be vacated by a capitalism that is necessarily and naturally hegemonic) then a vision of noncapitalist economic practices as existing and widespread might be able to be born; and in the context of such a vision, a new anticapitalist politics might emerge, a noncapitalist politics of class (whatever that may mean) might take root and flourish. A long shot perhaps but one worth pursuing.

**Representing capitalism as a bounded, monistic entity precludes noncapital alternatives and furthers hegemonic, capital centric modes of thought**

**Gibson-Graham 2006** – J.K., pen name shared by feminist economic geographers Julie Graham and Katherine Gibson (“The End of Capitalism (As We Knew It): A Feminist Critique of Political Economy”, pg 43-45, IWren)

What interests me most here is the question of why the economism of which capitalism is the bearer is so difficult to moderate or excise. And what may account for the economic monism or hegemonism that accompanies most representations of capitalist society and development? Here a partial answer may be found in the metaphysics of identity that Althusser sought to undermine. Operating under an "imperative of unity" (Hazel 1994: 4) western conceptions of identity entail both the unity of an object with itself (its self-resemblance) and its one-to one relation with the sign by which it is known: one word with one meaning, corresponding to one thing. To such an essentialist reading of identity "capitalism" designates an underlying commonality in the objects to which it refers. Thus we are not surprised to encounter a capitalism that is essentially the same in different times and places (despite the fact that sameness as the precondition of meaning is exactly what various structuralist and poststructuralist traditions have sought to undermine.) By virtue of their identification as capitalist settings, different societies become the sites of a resemblance or a replication. Complex processes of social development - commodification, industrialization, proletarianization, internationalization - become legible as the signatures of capitalism rather than as unique and decentered determinations. When capitalism exists as a sameness, noncapitalism can only be subordinated or rendered invisible (like traditional or domestic economic forms). Noncapitalism is to capitalism as woman to man: an insufficiency until and unless it is released from the binary metaphysics of identity (where A is a unified self-identical being that excludes what it is not).34 If capitalism/man can be understood as multiple and specific; if it is not a unity but a heterogeneity, not a sameness but a difference; if it is always becoming what it is not; if it incorporates difference within its decentered being; then noncapitalism/woman is released from its singular and subordinate status. There is no singularity of Form to constitute noncapitalism/woman as a simple negation or as the recessive ground against which the positive figure of capitalism/man is defined. To conceptualize capitalism/man as multiple and different is thus a condition of theorizing noncapitalism/woman as a set of specific, definite forms of being. It is easy to appreciate the strategic effectiveness of reading the texts of capitalism deconstructively, discovering the surplus and contradictory meanings of the term, the places where capitalism is inhabited and constituted by noncapitalism, where it escapes the logic of sameness and is unable to maintain its ostensible self-identity (see chapter 10). But overdetermination can be used as an additional anti-essentialist theoretical strategy to complement and supplement the strategy of deconstruction. Taken together these strategies have the potential to undermine capitalism's discursive "hegemony" and to reconceptualize its role in social determination. Representations of society and economy cannot themselves be centered on a decentered and formless entity that is itself always different from itself, and that obtains its shifting and contradictory identity from the always changing exteriors that overdetermine it. Just as postmodernism obtains its power from modernism (its power to undermine and destabilize, to oppose and contradict),35 so can an overdeterminist approach realize its power and strategic capacity by virtue of its oppositional relation to the preeminent modes of understanding both language categories and identity/being. To the extent that we conceptualize entities as autonomous, bounded, and discrete (constituted by the exclusion of their outsides), and as the unique referents that give each sign a stable and singular meaning, to that extent does the strategy of thinking overdetermination have the power to destabilize theoretical discourse and reposition the concepts within it.36 Through the lens of overdetermination, identities (like capitalism) can become visible as entirely constituted by their "external" conditions. With an overdeterminist strategy we may empty capitalism of its universal attributes and evacuate the essential and invariant logics that allow it to hegemonize the economic and social terrain. Overdetermination enables us to read the causality that is capitalism as coexisting with an infinity of other determinants, none of which can definitively be said to be less or more significant, while repositioning capitalism itself as an effect. That the capitalist economy often escapes reconceptualization and so continues to function as an organizing moment, and an origin of meaning and causation in social theory, cannot be understood as a simple theoretical omission. It is also a reassertion of the hegemonic conceptions of language and determination that overdetermination is uniquely positioned to contradict. It is a testimony to the power of overdetermination that it has allowed certain post-Althusserian theorists to envision an "economy" that is not singular, centered, ordered or selfconstituting, and that therefore is not capitalism's exclusive domain.37 But it testifies to the resilience of the dominant conceptual context (it should perhaps be called a mode of thought) in which the objects of thought exist independently of thought and of each other that an autonomous economy still exists and operates in social representation. One can say that representations of the capitalist economy as an independent entity informed by logics and exclusive of its exteriors have allowed capitalism to hegemonize both the economic and the social field. One can also say, however, that overdetermination is a discursive strategy that can potentially empty, fragment, decenter and open the economy, liberating discourses of economy and society from capitalism's embrace. But that process, far from being over or even well on its way, has hardly begun.

**Alternatives to Capitalism end in war and genocide**

**Rummel 2004** – prof. emeritus of political science at the University of Hawaii [Rudolph, The Killing Machine that is Marxism, Online]

Of all religions, secular and otherwise, that of Marxism has been by far the bloodiest – bloodier than the Catholic Inquisition, the various Catholic crusades, and the Thirty Years War between Catholics and Protestants. In practice, Marxism has meant bloody terrorism, deadly purges, lethal prison camps and murderous forced labor, fatal deportations, man-made famines, extrajudicial executions and fraudulent show trials, outright mass murder and genocide. In total, Marxist regimes murdered nearly 110 million people from 1917 to 1987. For perspective on this incredible toll, note that all domestic and foreign wars during the 20th century killed around 35 million. That is, when Marxists control states, Marxism is more deadly then all the wars of the 20th century, including World Wars I and II, and the Korean and Vietnam Wars. And what did Marxism, this greatest of human social experiments, achieve for its poor citizens, at this most bloody cost in lives? Nothing positive. It left in its wake an economic, environmental, social and cultural disaster. The Khmer Rouge – (Cambodian communists) who ruled Cambodia for four years – provide insight into why Marxists believed it necessary and moral to massacre so many of their fellow humans. Their Marxism was married to absolute power. They believed without a shred of doubt that they knew the truth, that they would bring about the greatest human welfare and happiness, and that to realize this utopia, they had to mercilessly tear down the old feudal or capitalist order and Buddhist culture, and then totally rebuild a communist society. Nothing could be allowed to stand in the way of this achievement. Government – the Communist Party – was above any law. All other institutions, religions, cultural norms, traditions and sentiments were expendable. The Marxists saw the construction of this utopia as a war on poverty, exploitation, imperialism and inequality – and, as in a real war, noncombatants would unfortunately get caught in the battle. There would be necessary enemy casualties: the clergy, bourgeoisie, capitalists, "wreckers," intellectuals, counterrevolutionaries, rightists, tyrants, the rich and landlords. As in a war, millions might die, but these deaths would be justified by the end, as in the defeat of Hitler in World War II. To the ruling Marxists, the goal of a communist utopia was enough to justify all the deaths. The irony is that in practice, even after decades of total control, Marxism did not improve the lot of the average person, but usually made living conditions worse than before the revolution. It is not by chance that the world's greatest famines have happened within the Soviet Union (about 5 million dead from 1921-23 and 7 million from 1932-3, including 2 million outside Ukraine) and communist China (about 30 million dead from 1959-61). Overall, in the last century almost 55 million people died in various Marxist famines and associated epidemics – a little over 10 million of them were intentionally starved to death, and the rest died as an unintended result of Marxist collectivization and agricultural policies. What is astonishing is that this "currency" of death by Marxism is not thousands or even hundreds of thousands, but millions of deaths. This is almost incomprehensible – it is as though the whole population of the American New England and Middle Atlantic States, or California and Texas, had been wiped out. And that around 35 million people escaped Marxist countries as refugees was an unequaled vote against Marxist utopian pretensions.

**Attacks on capitalism cede the political—kills progressivism**

**Wilson 2000**-coordinator of the Independent Press Association’s Campus Journalism Project, author of lots of books [John K, How the left can win arguments and influence people: a tactical manual for pragmatic progressives, 2000, pg. 13-14, DKP]

Unfortunately, progressives spend most of their time attacking capitalism rather than taking credit for all the reforms that led to America’s economic growth. If Americans were convinced that social programs and investment in people (rather than corporate welfare and investment in weaponry) helped create the current economic growth, they would be far more willing to pursue additional progressive policies. Instead, the left allows conservatives to dismiss these social investments as “too costly” or “big government.” It is crucial not to allow the right to define these progressive programs as “anticapitalist” and then attempt to destroy them. The Reagan/Gingrich/Clinton era’s attempt to “get the government off our back” was an effort (fortunately, largely a failure) to corrupt the highly successful progressive capitalism in America. While the Reagan/Gingrich/Clinton “reforms” subsidized the dramatic growth in the wealth of the richest Americans and had a devastating impact on the very poor, they didn’t change the basic institutions of progressive capitalism. It may take several generations to recover from the damage done to the poor, but even the far right has been unable (so far) to destroy progressive middle-class institutions such as Social Security or public schools.

**Apocalyptic predictions about capitalism will be dismissed—emphasis should be on progressive reform**

**Wilson 2000**-coordinator of the Independent Press Association’s Campus Journalism Project, author of lots of books [John K, How the left can win arguments and influence people: a tactical manual for pragmatic progressives, 2000, pg. 14-15, DKP]

Leftists also need to abandon their tendency to make apocalyptic predictions. It's always tempting to predict that environmental destruction is imminent or the stock market is ready to crash in the coming second Great Depression. Arguments that the U.S. economy is in terrible shape fly in the face of reality. It's hard to claim that a middle-class American family with two cars, a big-screen TV, and a computer is oppressed. While the poor in America fell behind during the Reagan/Gingrich/Clinton era and the middle class did not receive its share of the wealth produced during this time, the economy itself is in excellent shape. Instead, the problem is the redistribution of wealth to the very rich under the resurgence of "free market" capitalism. Instead of warning that the economy will collapse without progressive policies, the left should emphasize that the progressive aspects of American capitalism have created the current success of the American economy after decades of heavy government investment in human capital. But the cutbacks in investment for education and the growing disparity between the haves and the have-notes are threatening the economy’s future success.

**Capitalism is inevitable—reform is the only option, revolutionary rhetoric cedes the political**

**Wilson 2000**-coordinator of the Independent Press Association’s Campus Journalism Project, author of lots of books [John K, How the left can win arguments and influence people: a tactical manual for pragmatic progressives, 2000, pg. 15-16, DKP]

Capitalism is far too ingrained in American life to eliminate. If you go into the most impoverished areas of America, you will find that the people who live there are not seeking government control over factories or even more social welfare programs; they’re hoping, usually in vain, for a fair chance to share in the capitalist wealth. The poor do not pray for socialism— they strive to be a part of the capitalist system. They want jobs, they want to start businesses, and they want to make money and be successful. What’s wrong with America is not capitalism as a system but capitalism as a religion. We worship the accumulation of wealth and treat the horrible inequality between rich and poor as if it were an act of God. Worst of all, we allow the government to exacerbate the financial divide by favoring the wealthy: go anywhere in America, and compare a rich suburb with a poor town— the city services, schools, parks, and practically everything else will be better financed in the place populated by rich people. The aim is not to overthrow capitalism but to overhaul it. Give it a social-justice tune-up, make it more efficient, get the economic engine to hit on all cylinders for everybody, and stop putting out so many environmentally hazardous substances. To some people, this goal means selling out leftist ideals for the sake of capitalism. But the right thrives on having an ineffective opposition. The Revolutionary Communist Party helps stabilize the "free market" capitalist system by making it seem as if the only alternative to free-market capitalism is a return to Stalinism. Prospective activists for change are instead channeled into pointless discussions about the revolutionary potential of the proletariat. Instead of working to persuade people to accept progressive ideas, the far left talks to itself (which may be a blessing, given the way it communicates) and tries to sell copies of the Socialist Worker to an uninterested public.

**Overthrowing capitalism is a political non-starter—reforms are the only way that the left will be effective.**

**Wilson 2000**-coordinator of the Independent Press Association’s Campus Journalism Project, author of lots of books [John K, How the left can win arguments and influence people: a tactical manual for pragmatic progressives, 2000, pg. 123]

The left often finds itself stuck in a debate between revolution and reform. To self-described revolutionaries, any attempt to reform the system is a liberal compromise that only delays the creation of a socialist utopia. The vision of workers casting off their chains and embracing the overthrow of capitalism is pure fantasy. No one actually knows what it means to overthrow capitalism, and it clearly isn't going to happen, anyway. Reforming American capitalism is not a halfhearted effort at modest change; it is a fundamental attack on the reigning ideology of "free market" capitalism. Progressive reforms, taken seriously, are revolutionary in every important sense. Reforms such as the New Deal were truly revolutionary for their time, and American capitalism has been saved from its own flaws by these progressive reforms. The problem is that these progressive reforms have not been carried far enough, in part because the revolutionary left has too often failed to support the progressives’ reformist agenda. The only leftist revolution in America will come from an accumulation of progressive policies, and so the question of revolution versus reform is irrelevant.

**Revolution will never happen overnight—progressive policies need to be built upon over time.**

**Wilson 2000**-coordinator of the Independent Press Association’s Campus Journalism Project, author of lots of books [John K, How the left can win arguments and influence people: a tactical manual for pragmatic progressives, 2000, pg. 121-123]

Progressives need to be pragmatic in order to be powerful. However, pragmatism shouldn't be confused with Clintonian centrism and the abandonment of all substance. Pragmatists have principles, too. The difference between a pragmatic progressive and a foolish one is the willingness to pick the right fights and fight in the right way to accomplish these same goals. The current failure of progressivism in America is due to the structure of American politics and media, not because of a wrong turn that the movement took somewhere along the way. What the left needs is not a "better" ideology but a tactical adaptation to the obstacles it faces in the contemporary political scene. A pragmatic progressivism does not sacrifice its ideals but simply communicates them better to the larger public. The words we use shape how people respond to our ideas. It's tempting to offer the standard advice that progressives should present their ideas in the most palatable form. But palatable to whom? The media managers and pedestrian pundits who are the intellectual gatekeepers won't accept these ideas. By the time progressives transform their ideas into the political baby food necessary for inclusion in current debates, it barely seems to be worth the effort. Leftists need to seize the dominant political rhetoric, even though it may be conservative in its goals, and turn it in a progressive direction. Progressives need to use the antitax ideology to demand tax cuts for the poor. Progressives need to use the antigovernment and antiwelfare ideology to demand the end of corporate welfare. Progressives need to translate every important issue into the language that is permissible in the mainstream. Something will inevitably be lost in the translation. But the political soul underlying these progressive ideas can be preserved and brought to the public's attention. The left does not need to abandon its progressive views in order to be popular. The left only needs to abandon some of its failed strategies and become as savvy as the conservatives are at manipulating the press and the politicians. The language of progressives needs to become more mainstream, but the ideas must remain radical. In an age of soulless politicians and spineless ideologies, the left has the virtue of integrity. Until progressives become less self-satisfied with the knowledge that they're right and more determined to convince everyone else of this fact, opportunities for political change will not be forthcoming. Progressives have also been hampered by a revolutionary instinct among some leftist groups. According to some left wingers, incremental progress is worthless-that is, nothing short of a radical change in government will mean anything to them. Indeed, for the most radical left wingers, liberal reforms are a threat to the movement, since they reduce the desire for more extreme changes. What the revolutionaries fail to realize is that progressive achievements can build on one another. If anything approaching a political revolution actually happens in America, it will be due to a succession of popular, effective, progressive reforms.

### Capitalism is beautiful –

**Only capitalism can fuel the investments needed for creating a clean economy. Economic growth is essential to protecting the environment because it is the only way to build coalitions of support.**

**Nordhaus & Shellenberger, 2007-**[Break Through: From the Death of Environmentalism to the Politics of Possibility, Ted & Michael, Managing Directors of American Environics, A social values research and strategy firm 15-17]

The politics we propose breaks with several widely accepted, largely unconscious distinctions, such as those between humans and nature, the community and the individual, and the government and the market. Few things have hampered environmentalism more than its longstanding position that limits to growth are the remedy for ecological crises. We argue for an explicitly pro-growth agenda that defines the kind of prosperity we believe is necessary to improve the quality of human life and to overcome ecological crises. One of the places where this politics of possibility takes concrete form is at the intersection of investment and innovation. There is simply no way we can achieve an 80 percent reduction in greenhouse gas emissions without creating breakthrough technologies that do not pollute. This is not just our opinion but also that of the United Nations International Panel on Climate Change, of Nicholas Stern, the former chief economist of the World Bank, and of top energy experts worldwide. Unfortunately, as a result of twenty years of cuts in funding research and development in energy, we are still a long way from even beginning to create these breakthroughs. The transition to a clean-energy economy should be modeled not on pollution control efforts, like the one on acid rain, but rather on past investments in infrastructure, such as railroads and highways, as well as on research and development - microchips, medi cines, and the Internet, among other areas. This innovation-centered framework makes sense not only for the long-term expansion of individual freedom, possibility, and choice that characterize modern democratic nations, but also for the cultural peculiarities of the United States. In 1840, Alexis de Tocqueville observed that "in the United States, there is no limit to the inventiveness of man to discover ways of increasing wealth and to satisfy the public's needs." Rather than *limiting* the aspirations of Americans, we believe that we should harness them in order to, in Tocqueville's words, "make new discoveries to increase the general prosperity, which, when made, they pass eagerly to the mass of people." The good news is that, at the very moment when we find ourselves facing new problems, from global warming to postmaterialist insecurity, new social and economic forces are emerging to overcome them. The new high-tech businesses and the new creative class may become a political force for a new, postindustrial social contract and a new clean-energy economy. One inspiring model for overcoming adversity can be found in the formation, after World War II, of what would later become the European Union. It was in the postwar years that the United States, France, Britain, and West Germany invested billions in the European Coal and Steel Community, which existed to rebuild war-torn nations and repair relations between former enemies, and which grew to become the greatest economic power the world has ever seen. Today's European Union wouldn't exist had it not been for a massive, shared global investment in energy. It's not hard to imagine what a similar approach to clean energy might do for countries like the United States, China, and India. But environmentalism has also saddled us with the albatross we call the politics of limits, which seeks to constrain human ambition, aspiration, and power rather than unleash and direct them.

Capitalism is the only system that can solve warming

**Parenti 2011**(Christian, PhD in Sociology from the London School of Economics, visiting fellow at CUNY's Center for Place, Culture and Politics, as well as a Soros Senior Justice Fellow, taught at the New College of California and at St. Mary's College, Tropic of Chaos: Climate Change and the New Geography of Violence, June 28, 2011)

There is one last imperative question. Several strands of green thinking maintain that capitalism is incapable of arriving at a sustainable relationship with nature because, as an economic system, capitalism must grow exponentially, while the earth is finite. You will find this argument in the literature of ecosocialism, deep ecology, and ecoanarchism. The same argument is often cast by liberal greens in deeply ahistorical and antitheoretical terms that, while critical of the economic system, often decline to name it. Back in the early 1970s, the Club of Rome’s book Limits to Growth fixated on the dangers of “growth" but largely avoided explaining why capitalism needs growth or how growth is linked to private ownership, profits, and interfirm competition. Whether these literatures describe the problem as “modern industrial society," “the growth cult," or the profit system, they often have a similar takeaway: we need a totally different economic system if we are to live in balance with nature. Some of the first to make such an argument were Marx and Engels. They came to their ecology through examining the local problem of relations between town and country—which was expressed simultaneously as urban pollution and rural soil depletion. In exploring this question they relied on the pioneering work of soil chemist Justus von Liebig. And from this small- scale problem, they developed the idea of capitalism’s overall “metabolic rift” with nature. Here is how Marx explained the dilemma: Capitalist production collects the population together in great centres, and causes the urban population to achieve an ever-growing preponderance. This has two results. On the one hand it concentrates the historical motive force of society; on the other hand, it disturbs the metabolic interaction between man and the earth, i.e. it prevents the return to the soil of its constituent elements consumed by man in the form of food and clothing; hence it hinders the operation of the eternal natural condition for the lasting fertility of the soil .... All progress in capitalist agriculture is a progress in the art, not only of robbing the worker, but of robbing the soil. From that grew the Marxist belief that capitalism, as a whole, is irreconcilably in contradiction with nature; that the economic system creates a rift in the balance of exchanges, or metabolism, connecting human society and natural systems. As with “soil robbing," so too with forests, fish stocks, water supplies, genetic inheritance, biodiversity, and atmospheric CO2 concentrations. The natural systems are out of sync; their elements are being rearranged and redistributed, ending up as garbage and pollution. As Mary Douglas, paraphrasing William James, put it, “Uncleanliness is matter out of place.”At a large enough scale, that disruption of elements threatens environmental catastrophe. It may be true: capitalism may be, ultimately, incapable of accommodating itself to the limits of the natural world. However, that is not the same question as whether capitalism can solve the climate crisis. Because of its magnitude, the climate crisis can appear as if it is the combination of all environmental crises—overexploitation of the seas, deforestation, overexploitation of freshwater, soil erosion, species and habitat loss, chemical contamination, and genetic contamination due to transgenic bioengineering. But halting greenhouse gas emissions is a much more specific problem; it is only one piece of the apocalyptic panorama. Though all these problems are connected, the most urgent and all encompassing of them is anthropogenic climate change. The fact of the matter is time has run out on the climate missue. Either capitalism solves the crisis or it destroys civilization. Capitalism begins to deal with the crisis now, or we face civilizational collapse beginning this century. We cannot wait for a socialist, or communist, or anarchist, or deep- ecology, neoprimitiverevolution; nor for a nostalgia-based localista conversion back to the mythical small-town economy of preindustrial America as some advocate. In short, we cannot wait to transform everything—including how we create energy. Instead, we must begin immediately transforming the energy economy. Other necessary changes can and will flow from that. Hopeless? No. If we put aside the question of capitalism’s limits and deal only with greenhouse gas emissions, the problem looks less daunting. While capitalism has not solved the environmental crisis—meaning the fundamental conflict between the infinite growth potential of the market and the finite parameters of the planet— it has, in the past, solved specific environmental crises. The sanitation movement of the Progressive Era is an example. By the 1830s, industrial cities had become perfect incubators of epidemic disease, particularly cholera and yellow fever. Like climate change today, these diseases hit the poor hardest, but they also sickened and killed the wealthy. Class privilege offered some protection, but it was not a guarantee of safety. And so it was that middle-class do-gooder goo-goos and mugwumps began a series of reforms that contained and eventually defeated the urban epidemics. First, the filthy garbage-eating hogs were banned from city streets, then public sanitation programs of refuse collection began, sewers were built, safe public water provided, housing codes were developed and enforced. And, eventually, the epidemics of cholera stopped. So, too, were other infectious diseases, like pulmonary tuberculosis, typhus, and typhoid, largely eliminated. Thus, at the scale of the urban, capitalist society solved an environmental crisis through planning and public investment. Climate change is a problem on an entirely different order of magnitude, but past solutions to smaller environmental crises offer lessons. Ultimately, solving the climate crisis—like the nineteenth- century victory over urban squalor and epidemic contagions—will require a relegitimation of the state’s role in the economy. We will need planning and downward redistribution of wealth. And, as I have sketched out above, there are readily available ways to address the crisis immediately—if we make the effort to force our political leaders to act. We owe such an effort to people like Ekaru Loruman, who are already suffering and dying on the front lines of the catastrophic convergence, and to the next generation, who will inherit the mess. And, we owe it to ourselves.

**Prosperity and growth are essential to progressive social change—limits backfire.**

**Nordhaus & Shellenberger, 2007**-[Break Through: From the Death of Environmentalism to the Politics of Possibility, Ted & Michael, Managing Directors of American Environics, A social values research and strategy firm 35-37]

Just as prosperity tends to bring out the best of human nature, poverty and collapse tend to bring out the worst. Not only are authoritarian values strongest in situations where our basic material and security needs aren't being met, they also become stronger in societies experiencing economic downturns. Economic collapse in Europe after World War I, in Yugoslavia after the fall of communism, and in Rwanda in the early 1990S triggered an authoritarian reflex that fed the growth of fascism and violence. The populations in those countries, feeling profoundly insecure at the physiological, psychological, and cultural levels, embraced authoritarianism and other lower-order materialist values. This is also what occurred in Iraq after the U.S. invasion. This shift away from fulfillment and toward survival values appears to be occurring in the United States, albeit far more gradually than in places like the former Communist-bloc countries. Survival values, including fatalism, ecological fatalism, sexism, everyday rage, and the acceptance of violence, are on the rise in the United States. The reasons for America’s gradual move away from fulfillment and toward survival values are complex. Part of it appears to be driven by increasing economic insecurity. This insecurity has several likely causes: the globalization of the economy; the absence of a new social contract for things like health care, child care and retirement appropriate for our postindustrial age; and status competitions driven by rising social inequality. Conservatives tend to believe that all Americans are getting richer while liberals tend to believe that the rich are getting richer and the poor are getting poorer. In our discussion of security in chapter 7 we argue that what is happening is a little bit of both: homeownership and purchasing power have indeed been rising, but so have household and consumer debt and the amount of time Americans spend working. While cuts to the social safety net have not pushed millions of people onto the street, they have fed social insecurity and increased competition with the Joneses. It is not just environmentalists who misunderstand the prosperity-fulfillment connection. In private conversations, meetings and discussions, we often hear progressives lament public apathy and cynicism and make statements such as “Things are going to have to get a lot worse before they get better.” We emphatically disagree. In our view, things have to get better before they can get better. Immiseration theory—the view that increasing suffering leads to progressive social change—has been repeatedly discredited by history. Progressive social reforms, from the Civil Rights Act to the Clean Water Act, tend to occur during times of prosperity and rising expectations—not immiseration and declining expectations. Both the environmental movement and the civil rights movement emerged as a consequence of rising prosperity. It was the middle-class, young, and educated black Americans who were on the forefront of the civil rights movement. Poor blacks were active, but the movement was overwhelmingly led by educated, middle-class intellectuals and community leaders (preachers prominent among them). This was also the case with the white supporters of the civil rights movement, who tended to be more highly educated and more affluent than the general American population. In short, the civil rights movement no more emerged because African Americans were suddenly denied their freedom than the environmental movement emerged because American suddenly started polluting.

**Resistance to capital is futile and dangerous – natural hierarchies of power are inevitable and sustain peace**

**Wilkinson 2005** – Academic Coordinator of the Social Change Project and the Global Prosperity Initiative at The [Mercatus Center](http://en.wikipedia.org/wiki/Mercatus_Center) at [George Mason University](http://en.wikipedia.org/wiki/George_Mason_University) Will, Capitalism and Human Nature, [Cato Policy Report](http://www.cato.org/pubs/policy_report/pr-index.html) Vol. XXVII No. 1

Emory professor of economics and law Paul Rubin usefully distinguishes between "productive" and "allocative" hierarchies. Productive hierarchies are those that organize cooperative efforts to achieve otherwise unattainable mutually advantageous gains. Business organizations are a prime example. Allocative hierarchies, on the other hand, exist mainly to transfer resources to the top. Aristocracies and dictatorships are extreme examples. Although the nation-state can perform productive functions, there is the constant risk that it becomes dominated by allocative hierarchies. Rubin warns that our natural wariness of zero-sum allocative hierarchies, which helps us to guard against the concentration of power in too few hands, is often directed at modern positive-sum productive hierarchies, like corporations, thereby threatening the viability of enterprises that tend to make everyone better off**.** There is no way to stop dominance-seeking behavior. We may hope only to channel it to non-harmful uses. A free society therefore requires that positions of dominance and status be widely available in a multitude of productive hierarchies, and that opportunities for greater status and dominance through predation are limited by the constant vigilance of "the people"—the ultimate reverse dominance hierarchy. A flourishing civil society permits almost everyone to be the leader of something, whether the local Star Trek fan club or the city council, thereby somewhat satisfying the human taste for hierarchical status, but to no one's serious detriment.

**Capitalism is key to the formation of successful space programs**

**Martin 2010** (Robert, Amerika, June 21, <http://www.amerika.org/politics/centrifuge-capitalism/>, accessed: 3 July 2011)

Centralization and capitalism are necessary for any intelligent civilization, yet in excess drains the base population of any sustenance whatsoever, leaving them unemployed, homeless and starving at worst. The answer to this event is not a swing on the pendulum all the way onto total equality fisted socialism out on a plate for everyone who isn’t rich, that would be devastating for organization, but is a more natural ecosystem type of financing of a near-barter economics with different values and currencies for localized entities and more buoyant monetary for inter-localities – only monetizing where absolutely necessary. Without the higher economics that goes beyond small barter communities, there could be no space programs, or planetary defences providing the technology or the organization necessary to survive extinction events or fund a military etc, it’s critical for the structure of the superorganism – yet too much and some individuals inside of it become so padded from outside reality that they completely ignore the world around them.

**Extinction - we have to go to space**

**Garan, 2010** – Astronaut (Ron, 3/30/10, Speech published in an article by Nancy Atkinson, “The Importance of Returning to the Moon,” http://www.universetoday.com/61256/astronaut-explains-why-we-should-return-to-the-moon/, JMP)

Resources and Other Benefits: Since we live in a world of finite resources and the global population continues to grow, at some point the human race must utilize resources from space in order to survive. We are already constrained by our limited resources, and the decisions we make today will have a profound affect on the future of humanity. Using resources and energy from space will enable continued growth and the spread of prosperity to the developing world without destroying our planet. Our minimal investment in space exploration (less than 1 percent of the U.S. budget) reaps tremendous intangible benefits in almost every aspect of society, from technology development to high-tech jobs. When we reach the point of sustainable space operations we will be able to transform the world from a place where nations quarrel over scarce resources to one where the basic needs of all people are met and we unite in the common adventure of exploration. The first step is a sustainable permanent human lunar settlement.

**The expansion of capitalism makes war less likely**

**Griswold 2005**- Director of the Cato institute center for trade policy studies (Daniel, “Peace on earth? Try free trade among men,” 12/28/05, http://www.cato.org/pub\_display.php?pub\_id=5344)

First, trade and globalization have reinforced the trend toward democracy, and democracies don't pick fights with each other. Freedom to trade nurtures democracy by expanding the middle class in globalizing countries and equipping people with tools of communication such as cell phones, satellite TV, and the Internet. With trade comes more travel, more contact with people in other countries, and more exposure to new ideas. Thanks in part to globalization, almost two thirds of the world's countries today are democracies -- a record high. Second, as national economies become more integrated with each other, those nations have more to lose should war break out. War in a globalized world not only means human casualties and bigger government, but also ruptured trade and investment ties that impose lasting damage on the economy. In short, globalization has dramatically raised the economic cost of war. Third, globalization allows nations to acquire wealth through production and trade rather than conquest of territory and resources. Increasingly, wealth is measured in terms of intellectual property, financial assets, and human capital. Those are assets that cannot be seized by armies. If people need resources outside their national borders, say oil or timber or farm products, they can acquire them peacefully by trading away what they can produce best at home. Of course, free trade and globalization do not guarantee peace. Hot-blooded nationalism and ideological fervor can overwhelm cold economic calculations. But deep trade and investment ties among nations make war less attractive. Trade wars in the 1930s deepened the economic depression, exacerbated global tensions, and helped to usher in a world war. Out of the ashes of that experience, the United States urged Germany, France, and other Western European nations to form a common market that has become the European Union. In large part because of their intertwined economies, a general war in Europe is now unthinkable.

## A2 - Politics:

**Even those who oppose curtailing security measures will like the AFF, enough momentum has been gained and the opposition has realized they must compromise to keep their security alive.**

Jeremy **Diamond**, CNN NSA surveillance bill passes after weeks-long showdown Tue June 2, **2015** http://www.cnn.com/2015/06/02/politics/senate-usa-freedom-act-vote-patriot-act-nsa/

Washington (CNN)The National Security Agency lost its authority to collect the phone records of millions of Americans, thanks to a new reform measure Congress passed on Tuesday. President Barack Obama signed the bill into law on Tuesday evening. It is the first piece of legislation to reform post 9/11 surveillance measures. "It's historical," said Sen. Patrick Leahy, D-Vermont, one of the leading architects of the reform efforts. "It's the first major overhaul of government surveillance in decades." The weeks-long buildup to the final vote was full of drama. Kentucky Sen. Rand Paul assailed the NSA in a 10-hour speech that roused civil libertarians around the country. He opposed both renewing the post 9/11-Patriot Act and the compromise measure -- that eventually passed -- known as the USA Freedom Act. Meanwhile, Senate Majority Leader Mitch McConnell, and defense hawks such as Sens. John McCain and Lindsey Graham, had hoped to extend the more expansive Patriot Act, arguing it was essential for national security. The Republican infighting broke out during two weeks of debate on Capitol Hill and on the presidential campaign trail. And in part thanks to Paul's objections, certain counterterrorism provisions of the Patriot Act expired late Sunday amid warnings of national security consequences. Obama welcomed the bill's final passage on Tuesday, but took a shot at those who held it up. "After a needless delay and inexcusable lapse in important national security authorities, my administration will work expeditiously to ensure our national security professionals again have the full set of vital tools they need to continue protecting the country," he said in a statement. No that Obama has signed the bill, his administration will get to work getting the bulk metadata collection program back up and running during a six-month transition period to the new data collection system. Senior administration officials described a two-step process: The first is the technical process -- essentially flipping the switches back and coordinating the databases of information stored by the government -- which takes a full day. The second is a legal process that could take longer. The government needs to make a filing with the special secretive court -- which has authorized the bulk metadata collection program since 2006 -- to verify that the metadata programs are legal under the new law. It's unclear how long the process would take, but one official estimated the process could take three or four days. Final passage of the compromise bill was in question until Tuesday, until the Senate successfully rebuffed with three amendments which could have thrown a wrench into the works. The bill's passage is the culmination of efforts to reform the NSA that blossomed out of NSA leaker Edward Snowden's 2013 revelations. "This is the most important surveillance reform bill since 1978, and its passage is an indication that Americans are no longer willing to give the intelligence agencies a blank check," said Jameel Jaffer, deputy legal director at the American Civil Liberties Union. Congress had failed last year to pass a similar reform effort. The legislation will require the government obtain a targeted warrant to collect phone metadata from telecommunications companies, makes the Foreign Intelligence Surveillance Court (known as the FISA court) which reviews those warrant requests more transparent and reauthorizes Patriot Act provisions that lapsed early Monday. The bill, though, passed over the strong and impassioned objections of security hawks in the Republican Party and from some former members of the intelligence community. But as the June 1 deadline to renew expiring provisions of the Patriot Act closed in, and as NSA reform advocates refused to budge in the face of charges of damaging national security, top Senate Republicans led by Senate Majority Leader Mitch McConnell eventually relented, giving way to pressure from House Republicans, the Obama administration and reform advocates in their own body. McConnell and others realized that the USA Freedom Act, which passed the House three weeks earlier, was their only ticket to keeping counterterrorism provisions like data collection and roving wiretaps alive. But while McConnell kept up his protest into the final moments leading up to the vote, his fellow Kentucky senator who antagonized his every move to reauthorize provisions of the Patriot Act noticeably avoided the spotlight on Tuesday. Paul's weeks of staunch and unflinching opposition to reauthorizing the Patriot Act, and to the USA Freedom Act for not going far enough, ended Thursday with a simple "No" vote on that bill. He even relented in his plan to offer his own amendments to that piece of legislation and didn't make a prominent speech on the Senate floor on Tuesday. Paul chalked up his efforts as a win, though, succeeding in leading the bulk metadata collection program to its expiration on Sunday night.

**Republicans love the plan, they were the driving force behind passing the last FISA reform attempt**

**Speaker Boehner's Press Office** PRESS RELEASE: After House Democrats Delay Again, GOP Leaders Will Force Another Vote on Bipartisan Senate FISA Bill TODAY March 4, **2008**| http://www.speaker.gov/press-release/boehner-politics-must-not-delay-action-fisa-modernization#sthash.sRwrpJ3D.dpuf

House Republican Leader John Boehner (R-OH) today criticized the announcement by Majority Leader Steny Hoyer (D-MD) that the House would not vote on a FISA modernization bill until at least next week and announced that GOP leaders would force another vote on the bipartisan Senate measure today. According to Politico, “Although Democratic leaders insist they are working feverishly to iron out their differences, one House member – speaking on the condition of anonymity – suggested it could be a long time, if ever, before the bill was brought for a vote. ‘A lot of people think the politics of doing nothing on this issue are very good for both sides of the political spectrum,’ they said.” Boehner issued the following statement: “Let me be clear: politics is never a good reason to delay action on good public policy, and that is even more the case when we are dealing with matters of national security. We are a nation at war, and to block a vote on legislation that would make our country safer solely for political gain is as irresponsible a decision as I could imagine. “Three weeks ago, the Majority attempted to extend the Protect America Act by 21 days. That extension would expire this weekend. In other words, the Majority knew of a threat then, and they know of one now. That is why I find Leader Hoyer’s announcement today so baffling – and so disappointing. “Congress has the obligation to give our intelligence officials every possible tool to protect the American people. These ongoing delays – nearly three weeks now – are completely unacceptable. The Majority should reconsider its decision to continue blocking the Senate-passed FISA modernization bill. House Republicans will force another vote on the bipartisan Senate bill today, and I’m hopeful Democrats will do the right thing by supporting this critical measure.”

**Support for FISA reform is bipartisan, the loudest opposition is only a small group of holdouts**

**Huffington Post** (Watchdog Finds Huge Failure In Surveillance Oversight Ahead Of Patriot Act Deadline Posted: 05/21/**2015**) http://www.huffingtonpost.com/2015/05/21/section-215-oversight\_n\_7383988.html

WASHINGTON -- In a declassified and heavily redacted report on a controversial Patriot Act provision, the Justice Department’s inspector general found that the government had failed to implement guidelines limiting the amount of data collected on Americans for seven years. Section 215 of the Patriot Act, which is set to expire June 1 unless Congress reauthorizes it, has been the legal basis for the intelligence community’s bulk metadata collection. As a condition for reauthorization back in 2005, the Justice Department was required to minimize the amount of nonpublic information that the program gathered on U.S. persons. According to the inspector general, the department did not adopt sufficient guidelines until 2013. It was not until August of that year -- two months after the bombshell National Security Agency disclosures by Edward Snowden -- that Justice began applying those guidelines in applications to the Foreign Intelligence Surveillance Act court, the secretive body that approves government surveillance requests. “It’s an indictment of the system of oversight that we’ve relied upon to check abuses of surveillance powers. The report makes clear that, for years, the FBI failed to comply with its basic legal requirements in using Section 215, and that should trouble anyone who thinks that secret oversight is enough for surveillance capabilities that are this powerful,” Alex Abdo, a staff attorney at the American Civil Liberties Union, told HuffPost. “The report confirms that the government has been using Section 215 to collect an ever-expanding universe of records. Given the timing, it’s particularly significant,” he continued referring to the looming expiration date. At times during that seven-year period, the report noted, the government blocked the Justice Department's Office of the Inspector General from determining whether the minimization guidelines had been implemented: The FBI in the past has taken the position, over the OIG’s objections, that it was prohibited from disclosing FISA-acquired information to the OIG for oversight purposes because the Attorney General had not designated anyone in the OIG as having access to the information for minimization reviews of other lawful purposes, and because there were no specific provisions in the procedures authorizing such access. Declassification of the inspector general’s findings comes at a critical juncture for the future of NSA spying. A federal appellate court recently held that the bulk metadata collection program is not authorized by the Patriot Act. A large majority of congressional lawmakers favor replacing the existing legislation with a reform bill that at least curbs the government’s authority to collect information on Americans. There is, however, a small group in Congress who insist that a clean reauthorization of the Patriot Act is necessary to protect the country from terrorist attacks. The reform bill, called the USA Freedom Act, passed overwhelmingly in the House. The Senate is expected to vote on either that bill or a two-month reauthorization of the Patriot Act later this week. The House, which is scheduled to go into recess Thursday for a week, has indicated it will not extend its session to vote on a Patriot Act extension. That move is essentially an ultimatum to Senate Majority Leader Mitch McConnell (R-Ky.): pass the USA Freedom Act or let the existing surveillance law expire with no replacement. As it stands, the Senate may or may not be able to pass the USA Freedom Act. McConnell and several members of his party oppose any move to rein in the NSA’s surveillance authority. Meanwhile, Sen. Rand Paul (R-Ky.) opposes the reform bill on the grounds that it does not go far enough in limiting the government’s ability to spy on Americans. During his 10-and-a-half hour speech on the Senate floor Wednesday, Paul outlined several amendments that he and Sen. Ron Wyden (D-Ore.) hoped to add to the bill. With the upper chamber scheduled to recess on Friday, McConnell is unlikely to allow for a lengthy amendment process -- particularly to debate changes that would further constrain the intelligence community. Though publicly released Thursday, the Justice Department’s report had been made available to lawmakers in February. Several of its findings echo key concerns raised by members of Congress throughout the NSA debate. “For years, any American's communication data could have been tracked and collected by the government, whether or not they were suspected of a crime,” said Sen. Chris Coons (D-Del.) on Wednesday, when he briefly joined Paul on floor. “That program has been carried out under Section 215 of the Patriot Act based on flimsy or mistaken interpretations of the original law, all in the name of our national security.” “There is not one clear, publicly confirmed instance of a plot being foiled because of this Section 215 program,” Coons added. The inspector general found that data collected under Section 215 increased over the years and was not limited to phone records. At times, the government requested copies of business ledgers, receipts, and medical and educational records. “The type of information that is categorized as metadata will likely continue to evolve and expand,” the report said. “The [National Security Division] and [National Security Law Branch] attorneys told us that other terms used to define metadata themselves lack standardized definitions and that applying them to rapidly changing technology can be difficult.” The government's requests were also not limited to material about individuals involved in an FBI investigation. And while defendants of the program insist that information on Americans is gathered as an incidental byproduct rather than a targeted effort, Abdo noted that the definition of a “U.S. person” is still classified in the recently released report: The inspector general's report focused on the government’s use of Section 215 between 2007 and 2009. In that two-year period, every Justice Department request to the FISA court for spying authority was granted -- a fact that would seem to bolster critics' argument that the secret court's process needs a permanent privacy advocate. “Without an adversarial process, you really can’t even have a judicial process,” Paul said Wednesday evening. “The FISA court only hears from one side -- the government.” While the reform bill that passed the House would add a slot for a privacy advocate, Paul and the ACLU have both noted that the legislation still gives the court the authority to decide if and when to appoint someone to the job.

## A2 – Ban/Remove Surveillance/FISA etc. CP

**Pressure to nationalize is coming & real – NSA fears are driving it**

 [Gordon M. **Goldstein** 2014, Writer for the Atlantic, The End of the Internet?, http://www.theatlantic.com/magazine/archive/2014/07/the-end-of-the-internet/372301/]

If the long history of international commerce tells us anything, it is this: free trade is neither a natural nor an inevitable condition. Typically, trade has flourished when a single, dominant country has provided the security and will to sustain it. In the absence of a strong liberal ethos, promoted and enforced by a global leader, states seem drawn, as if by some spell, toward a variety of machinations (tariffs, quotas, arcane product requirements**)** that provide immediate advantages to a few domestic companies or industries—and that lead to collective immiseration over time. The U.S. has played a special role in the development of the Internet. The Department of Defense fostered ARPANET, the precursor to the Internet. As the network evolved, American companies were quick to exploit its growth, gaining a first-mover advantage that has in many cases grown into global dominance. A vast proportion of the world’s Web traffic passes through American servers. Laura DeNardis, a scholar of Internet governance at American University, argues that the Internet’s character is inherently commercial and private today. “The Internet is a collection of independent systems,” she writes, “operated by mostly private companies,” including large telecommunications providers like AT&T and giant content companies such as Google and Facebook. All of these players make the Internet function through private economic agreements governing the transmission of data among their respective networks. While the U.S. government plays a role—the world’s central repository for domain names, for instance, is a private nonprofit organization created at the United States’ urging in 1998, and operating under a contract administered by the Department of Commerce—it has applied a light touch. And why wouldn’t it? The Web’s growth has been broadly congenial to American interests, and a large boon to the American economy. That brings us to Edward Snowden and the U.S. National Security Agency. Snowden’s disclosures of the NSA’s surveillance of international Web traffic have provoked worldwide outrage and a growing counterreaction. Brazil and the European Union recently announced plans to lay a $185 million undersea fiber-optic communications cable between them to thwart U.S. surveillance. In February, German Chancellor Angela Merkel called for the European Union to create its own regional Internet, walled off from the United States. “We’ll talk to France about how we can maintain a high level of data protection,” Merkel said. “Above all, we’ll talk about European providers that offer security for our citizens, so that one shouldn’t have to send e-mails and other information across the Atlantic.” Merkel’s exploration of a closed, pan-European cloud-computing network is simply the latest example of what the analyst Daniel Castro of the Information Technology and Innovation Foundation calls “data nationalism,” a phenomenon gathering momentum whereby countries require that certain types of information be stored on servers within a state’s physical borders. The nations that have already implemented a patchwork of data-localization requirements range from Australia, France, South Korea, and India to Indonesia, Kazakhstan, Malaysia, and Vietnam, according to Anupam Chander and Uyen P. Le, two legal scholars at the University of California at Davis. “Anxieties over surveillance … are justifying governmental measures that break apart the World Wide Web,” they wrote in a recent white paper. As a result, “the era of a global Internet may be passing.” Security concerns have catalyzed data-nationalization efforts, yet Castro, Chander, and Le all question the benefits, arguing that the security of data depends not on their location but on the sophistication of the defenses built around them. Another motive appears to be in play: the Web’s fragmentation would enable local Internet businesses in France or Malaysia to carve out roles for themselves, at the expense of globally dominant companies, based disproportionately in the United States. Castro estimates that the U.S. cloud-computing industry alone could lose $22 billion to $35 billion in revenue by 2016. The Snowden affair has brought to a boil geopolitical tensions that were already simmering. Autocracies**,** of course, have long regulated the flow of Internet data, with China being the most famous example. But today such states are being joined by countries across Asia, the Middle East, and Europe in calling for dramatic changes in the way the Web operates, even beyond the question of where data are stored.

**NSA and FISA fears spur internet balkanization efforts – fear the U.S.**

 [Tim **Ray**, The Balkanization of the Internet, 2014, http://www.21ct.com/blog/the-revolution-will-not-be-tweeted-the-balkanization-of-the-internet-part-2/]

NSA SURVEILLANCE STIRS THE POT (AND PROVIDES COVER) whilecountries are struggling with their own versions of this scenario and with how to spinthis frightening picture of the new Balkanized Internet,they were handed a great gift:Edward Snowden’s tales of NSA’s global surveillance operations. Suddenly, there’s a common enemy: America. Globally adventurous, the Americans (it seems) are also watching everyone they can, sometimes without permission. Snowden’s revelations alone will not be enough to force through the kinds of national controls we’re talking about, but they are a great start, a unifying force. Sound farfetched? Maybe. Are there other answers? Perhaps. Brazil is moving forward with nationalizing its email services as well as plans to store all data within the country’s borders. The idea there is the same as the example above: take essential services in-country in order to prevent the U.S. from spying on them and (as a side effect) control them too**.** These proposals seem to be receiving some popular support; many see it as akin to nationalizing their oil, or another resource. Taking local control of formerly global services is the beginning of Balkanization for countries that choose that path.

**Cyber threats are real and happening – some government control is key to prevent attacks that could crush the international system**

 [Andrea **Renda,** Senior Research Fellow, Centre for European Policy Studies, Cybersecurity and Internet Governance, May 3, **2013**, http://www.cfr.org/councilofcouncils/global\_memos/p32414]

Cybersecurity is now a leading concern for major economies. Reports indicate that hackers can target the **U.S.** Department of Justice or Iranian nuclear facilities just as easily as they can mine credit card data.Threats have risen as the Internet has become a critical infrastructure for the global economy, with thousands of operations migrating onto it. For example, the innocuous practice of bring-your-own-device to work presents mounting dangers due to malware attacks--software intended to corrupt computers. Between April and December 2012, the types of threats detected on the Google Android platform increased by more than thirty times from 11,000 to 350,000, and are expected to reach one million in 2003, according to security company Trend Micro (See Figure 1). Put simply, as the global economy relies more on the Internet, the latter becomes increasingly insidious. There is no doubt that the Internet is efficient. But it now needs a more concerted global effort to preserve its best aspects and guard against abuses. The rise of the digital cold war Cyber threats and cyberattacks also reveal an escalating digital cold war. For years the United States government has claimed that cyberattacks are mainly state-sponsored, initiated predominantly by China, Iran, and Russia. The penetration of the U.S. Internet technology market by corporations such as Huawei, subsidized by the Chinese government, has led to more fears that sensitive information is vulnerable. After an explicit exchange of views between President Barack Obama and President Xi Jinping in February 2013, the United States passed a new spending law that included a cyber espionage review process limiting U.S. government procurement of Chinese hardware. U.S. suspicions intensified when Mandiant, a private information security firm, released a report detailing cyber espionage by a covert Chinese military unit against 100 U.S. companies and organizations. In March 2013, the U.S. government announced the creation of thirteen new teams of computer experts capable to retaliate if the United States were hit by a major attack. On the other hand**,** Chinese experts claim to be the primary target of state-sponsored attacks**,** largely originating from the United States. But in reality the situation is more complex. Table 1 shows that cyberattacks in March 2013 were most frequently launched from Russia and Germany, followed by Taiwan and the United States. What is happening to the Internet? Created as a decentralized network, the Internet has been a difficult place for policymakers seeking to enforce the laws of the real world. Distributed Denial of Service (DDoS) attacks—consisting of virus infected systems (Botnet) targeting a single website leading to a Denial of Service for the end user—became a harsh reality by 2000, when companies such as Amazon, eBay, and Yahoo! had been affected. These costs stem from the direct financial damage caused by loss of revenue during an attack, disaster recovery costs associated with restoring a company's services, a loss of customers following an attack, and compensation payments to customers in the event of a violation of their service level agreements. As the Internet permeates everyday life, the stakes are becoming even higher. In a few years, society could delegate every aspect of life to information technology imagine driverless cars, machine-to-machine communications, and other trends that will lead to the interconnection of buildings to trains, and dishwashers to smartphones. This could open up these societies to previously unimaginable disruptive cyber events. What is as concerning is that in cyberspace, attacks seem to have a structural lead over defense capabilities: it can be prohibitively difficult to foresee where, how, and when attackers will strike. Confronted with this challenge**,** the global community faces a dilemma. The neutrality of the Internet has proven to be a formidable ally of democracy, but the cost of protecting users' freedom is skyrocketing. Critical services, such as e-commerce or e-health, might never develop if users are not able to operate in a more secure environment. Moreover, some governments simply do not like ideas to circulate freely. Besides the "giant cage" built by China to insulate its Internet users, countries like Pakistan have created national firewalls to monitor and filter the flow of information on the network. And even the Obama administration, which has most recently championed Internet freedom initiatives abroad, is said to be cooperating with private telecoms operators on Internet surveillance, and Congress is discussing a new law imposing information sharing between companies and government on end-user behavior, which violates user privacy. The question becomes more urgent every day: Should the Internet remain an end-to-end, neutral environment, or should we sacrifice Internet freedom on the altar of enhanced security? The answer requires a brief explanation of how the Internet is governed, and what might change. The end of the Web as we know it? Since its early days, the Internet has been largely unregulated by public authorities, becoming a matter for private self-regulation by engineers and experts, who for years have taken major decisions through unstructured procedures. No doubt, this has worked in the past. But as cyberspace started to expand, the stakes began to rise. Informal bodies such as the Internet Corporation for Assigned Names and Numbers (ICANN)—a private, U.S.-based multi-stakeholder association that rules on domain names and other major aspects of the Internet have been increasingly put under the spotlight. Recent ICANN rulings have exacerbated the debate over the need for more government involvement in Internet governance, either through a dedicated United Nations agency or through the International Telecommunications Union (ITU), an existing UN body that ensures international communication and facilitates deployment of telecom infrastructure. But many experts fear that if a multi-stakeholder model is abandoned, the World Wide Web would cease to exist as we know it. Last year's World Conference on International Telecommunications, held in Dubai, hosted a heated debate on the future of cyberspace. Every stakeholder was looking for a different outcome. The ITU looked to expand its authority over the Internet; European telecoms operators wanted to secure more revenues by changing the rules for exchanging information between networks; China, Russia, and India wanted stronger government control over the Internet; the United States and Europe stood to protect the multi-stakeholder model of ICANN; and a group of smaller countries sought to have Internet access declared a human right. When a new treaty was finally put to vote, unsurprisingly, as many as fifty-five countries (including the United States and many EU member states) decided not to sign. Since then**,** the question on how the Internet will be governed remains unresolved.

**Surveillance fears drive nationalized internets, keeping FISA as a posturing move is key**

[NPR, 10 – 16 – 2013 Are We Moving To A World With More Online Surveillance?, http://www.npr.org/sections/parallels/2013/10/16/232181204/are-we-moving-to-a-world-with-more-online-surveillance]

Suspicion Of American Surveillance But McLaughlin sees that record now in jeopardy. "We've kind of blown it," he says. "The global fear and suspicion about American surveillance is pushing countries to centralize their [Internet] infrastructures and get the U.S. out of the picture. Ultimately, I think that will have negative consequences for free speech as well as for protection of privacy." Some of the countries pushing for more international control over the Internet were never all that supportive of Internet freedom, like Russia and China**.** But they've now been joined by countries like Brazil, whose president, Dilma Rousseff, was furious when she read reports that she was herself an NSA target. Speaking at the United Nations last month, Rousseff called for a new "multilateral framework" for Internet governance and new measures "to ensure the effective protection of data that travel through the Web." At home, Rousseff has suggested that Brazil partially disconnect from U.S.-based parts of the Internet and take steps to keep Brazilians' online data stored in Brazil, supposedly out of the NSA's reach. But Schneier says such moves would lead to "increased Balkanization" of the Internet.

**Cyberwar likely & will be huge – civilians are fair ground**

\* Professor, H. Ross & Helen Workman Research Scholar, and Director of the Program in Intellectual Property & Technology Law, University of Illinois College of Law. \*\* Research Fellow, University of Illinois College of Law [Jay P. **Kesan**\* **and** Carol M. **Hayes**\*\*, MITIGATIVE COUNTERSTRIKING: SELF-DEFENSE AND DETERRENCE IN CYBERSPACE, Spring, **2012**, Harvard Journal of Law & Technology, 25 Harv. J. Law & Tec 415]

Many academics and political figures have weighed in on the potential for cyberwarfare. Nikolai Kuryanovich, a Russian politician, wrote in 2006 he expects that in the near future many conflicts will take place in cyberspace instead of traditional war environments. n171 [\*443] Some commentators have asserted that cyberspace provides potential asymmetric advantages, which may be utilized by less powerful nations to exploit the reliance of the United States on information infrastructure. n172 Specifically, China recognizes the value of cyberwarfar**e**, n173 and its military includes "information warfare units." n174 Meanwhile, Russia has a cyberwarfare doctrine that views cyberattacks as force multipliers, and North Korea's Unit 121 focuses solely on cyberwarfare. n175 Many suspect that the Russian government conducted the cyberattacks against Estonia, Georgia, and Kyrgyzstan, though the Russian government's involvement has not been proven. n176 Estimates suggest there are currently 140 nations that either have or are developing cyberwarfare capabilities. n177 It is fair to say that preparations are underway to make cyberwarfare a viable alternative to physical warfare**,** and that policymakers are recognizing the applicability of the laws of war to the cyber context. n178 The effects of these changes on the private sector cannot be ignored. The line between the government and the private sector on cyberwar matters is blurred. Dycus notes that the federal government has at times delegated to private companies the task of operating cyber technology for the purpose of collecting and analyzing intelligence. n179 Because of the degree to which the private sector is involved with cyber infrastructure, many commentators have observed that the private sector will likely be heavily implicated by future cyberwars. n180 [\*444] This overlap between civilian and military roles may prove problematic. Some commentators express concerns that cyberwarfare may erode the distinction between combatants and noncombatants under international law, which currently protects noncombatants. n181 The degree to which conventional war doctrine applies to cyberwar is not yet clear. Some commentators argue that because of this uncertainty, aggressive countries may have carte blanche to launch cyberattacks against civilian targets in a manner that would be impermissible under the laws of kinetic war. n182 Given the importance of civilian targets in the cyberwar context, Brenner and Clarke suggest using a form of conscription to create a Cyberwar National Guard consisting of technologically savvy citizens to better protect CNI. n183 Indeed, one of the focuses of any national cybersecurity program should be on protecting CNI -- the topic to which we now turn.

# NEG:

## HEG Bad –

**Hegemony kills trade, causes protectionism and arms race**

Lobell 2009 (Steven E., Professor of Political Science at Utah University, Excerpt from Challenge of Hegemony, Published by the University of Michigan Press, Written in December, 2009, pg. 154-155,[Elibrary](http://site.ebrary.com.proxy.lib.umich.edu/lib/umich/docDetail.action?docID=10356833)) JA

In encountering new and old competitors on disparate fronts, free traders will respond to these external pressures by pushing the government to cooperate with liberal contenders and perhaps even imperial contenders. The domestic outcome of cooperation will ratchet-up the strength of efficient industry, the financial sector, consumers, and fiscal conservatives. Cooperation entails reduced protectionism, elimination of exchange controls, participation in NGOs and IGOs, territorial concessions, membership in collective security arrangements, and the negotiation of arms limitation agreements. Economy-minded free traders will favor aiding in the rise of liberal contenders, thereby expediting the hegemon’s cost-saving retreat from the locale. In doing so, the hegemon will retain access to its traditional interests in the locale without bearing any of the economic, political, or military costs associated with regional hegemony. Free traders will resist punishing states, even imperial competitors, because that will bolster the political clout of economic nationalists who will push for a more hard-line grand strategy. Punishing liberal contenders (even in a vital or strategic locale) will create the false illusion of incompatibility that can intensify into a self-defeating hostility spiral that disrupts trade, results in protectionism and beggar-thy-neighbor economic policies, and contributes to an arms race.

**Hegemony will inevitably cause economic collapse, fascism, and coercion.**

Martins and Thompson 2007 (Carlos Eduardo Martins is research director of the UNESCO-UNU Network on the Global Economy and Sustainable Development and an associate researcher at the Laboratory of Public Policy of the State University of Rio de Janeiro. Timothy Thompson is a Boren Research Fellow at the Institute of International Education, and teaching fellow at Boston College. "The Impasses of U.S. Hegemony: Perspectives for the Twenty-first Century". Published by SAGE publications in their journal Latin American Perspectives Vol 34 No. 1. Written in January of 2007. jstor) JA

The trajectories of U.S. hegemony and the modern world system in the coming decades should be understood in terms of these three long-run tendencies. I would argue that the expansion phase of a new Kondratieff cycle has been developing in the United States since 1994. This expansion will lack the brilliance of the phase that developed in the postwar period. It will be shorter and will promote lower rates of growth, since it will be affected by two downward trends: civilizational crisis and the B-phase of the systemic cycle. Within this new phase of expansion, the financial and ideological foundations of U.S. hegemony will deteriorate, and the United States will lose the leadership position that it exercised in the world economy from 1980 to 1990, when it was surpassed in dynamism only by East Asia. The world will enter a new phase of systemic chaos, and no nation-state will be able to reconstruct the world-system on new hegemonic bases. A bifurcation will occur: on one hand, there will be forces attempting to restore historical capitalism to U.S. imperialism via the cohesion of the principal centers of global wealth, and, on the other hand, there will be forces seeking to overcome the modern world-system through a posthegemonic system. This confrontation will occur not only among nation-states (although, in part, it may be oriented in terms of them) but also transnationally. The transnational dimension, aimed at creating new forms of power to direct both human existence and the planet, has already manifested itself, for example, in mass demonstrations against U.S. imperialism and the oligarchic coordination of the world economy and in attempts to organize social movements on a global scale, most notably in the World Social Forum. If transnationalism succeeds, humanity will be able to traverse the systemic chaos without succumbing to a cataclysmic war. Transnational forces will create "drive belts" across nation-states, circumventing global oligarchies. But if nationalism succeeds, it will be difficult to avoid a move toward fascism, barbarism, and the use of the state as an instrument of coercion.

**U.S hegemony will create conflict and war**

Monteiro 2012 ( Nuno P., Assistant Professor of Political Science at Yale University. Exerpt from "Why Unipolarity is not Peaceful". Published by International Security, Winter 2011/2012. PROJECT MUSE) JA

In this article, I provide a theory of unipolarity that focuses on the issue of unipolar peacefulness rather than durability. I argue that unipolarity creates significant conflict-producing mechanisms that are likely to involve the unipole itself. Rather than assess the relative peacefulness of unipolarity vis-à-vis bipolar or multipolar systems, I identify causal pathways to war that are characteristic of a unipolar system and that have not been developed in the extant literature. To be sure, I do not question the impossibility of great power war in a unipolar world. Instead, I show how unipolar systems provide incentives for two other types of war: those pitting the sole great power against another state and those involving exclusively other states. In addition, I show that the type of conflict that occurs in a unipolar world depends on the strategy of the sole great power, of which there are three. The first two—defensive and offensive dominance—will lead to conflicts pitting the sole great power against other states. The third—disengagement—will lead to conflicts among other states. Furthermore, whereas the unipole is likely to enter unipolarity implementing a dominance strategy, over time it is possible that it will shift to disengagement.

**Continued U.S Hegemony will inevitably cause U.S - China War**

Thompson 2012 (William R., professor of political science and Kinesiology at Indiana University. Excerpt from "Correspondence: Decline and Retrenchment—Peril or Promise?", Published by International Security Spring of 2012. project muse) JA

All great powers and their relative declines/transitions can be compared only with careful qualifications. Some powers are more important than others, and because they are more important, their transitions have been considerably less peaceful in the past. [End Page 196] Yet perhaps that is the problem. These conflicts were in the past, and something may have changed fundamentally. One possibility is that Europe harbored a string of territorially expansive political-military actors that no longer exist. Europe has played itself out as a cockpit of political-military bids for regional hegemony, but then Asia offers some prospects for both regional type III hegemony struggles (China-India and China and Russia) and a type I conflict (China-United States).

**Continued U.S hegemony will inevitably cause U.S - China war (This town ain't big enough for the two of us)**

Layne 2012 ( Christopher, professor of international affairs at the Bush School of Government and Public Service at Texas A&M University and Robert M. Gates Chair in National Security. Excerpt from "This Time It’s Real: The End of Unipolarity and the Pax Americana". Published by International Studies Quarterly, March 2012. wiley online library) JA

Great power politics is about power. Rules and institutions do not exist in vacuum. Rather, they reflect the distribution of power in the international system. In international politics, who rules makes the rules. The post-World War II international order is an American order that privileges the United States’ interests. Even the discourse of “liberal order” cannot conceal this fact. This is why the notion that China can be constrained by integrating into the post-1945 international order lacks credulity. For US scholars and policymakers alike, China’s successful integration hinges on Beijing’s willingness to accept the Pax Americana’s institutions, rules, and norms. In other words, China must accept playing second fiddle to the United States. Revealingly, Ikenberry makes clear this expectation when he says that the deal the United States should propose to China is for Washington “to accommodate a rising China by offering it status and position within the regional order in return for Beijing’s acceptance and accommodation of Washington’s core interests, which include remaining a dominant security provider within East Asia” ([Ikenberry 2011:356](http://onlinelibrary.wiley.com.proxy.lib.umich.edu/doi/10.1111/j.1468-2478.2011.00704.x/full#b22)). It is easy to see why the United States would want to cut such a deal but it is hard to see what’s in it for China. American hegemony is waning and China is ascending, and there is zero reason for China to accept this bargain because it aims to be the hegemon in its own region. The unfolding Sino-American rivalry in East Asia can be seen as an example of Dodge City syndrome (in American Western movies, one gunslinger says to the other: “This town ain’t big enough for both of us”) or as a geopolitical example of Newtonian physics (two hegemons cannot occupy the same region at the same time). From either perspective, the dangers should be obvious: unless the United States is willing to accept China’s ascendancy in East (and Southeast) Asia, Washington and Beijing are on a collision course.

**U.S Hegemony will cause China War**

Layne 2008 (Christopher Layne, professor of international affairs at the Bush School of Government and Public Service at Texas A&M University and Robert M. Gates Chair in National Security. Excerpt from "China's Challenge to U.S Hegemony". Published by Current History January 2008.

<http://acme.highpoint.edu/~msetzler/IR/IRreadingsbank/chinauscontain.ch08.6.pdf> )

China’s rise affects the United States because of what international relations scholars call the “power transition” effect: Throughout the history of the modern international state system, ascending powers have always challenged the position of the dominant (hegemonic) power in the international system—and these challenges have usually culminated in war. Notwithstanding Beijing’s talk about a “peaceful rise,” an ascending China inevitably will challenge the geopolitical equilibrium in East Asia. The doctrine of peaceful rise thus is a reassurance strategy employed by Beijing in an attempt to allay others’ fears of growing Chinese power and to forestall the United States from acting preventively during the dangerous transition period when China is catching up to the United States. Does this mean that the United States and China are on a collision course that will lead to a war in the next decade or two? Not necessarily. What happens in Sino-American relations largely depends on what strategy Washington chooses to adopt toward China. If the United States tries to maintain its current dominance in East Asia, Sino-American conflict is virtually certain, because U.S. grand strategy has incorporated the logic of anticipatory violence as an instrument for maintaining American primacy. For a declining hegemon, “strangling the baby in the crib” by attacking a rising challenger preventively—that is, while the hegemon still holds the upper hand militarily—has always been a tempting strategic option.

**U.S attempts to maintain it's hegemony will spark U.S China nuclear War**

Etzioni 2013( Amitai Etzioni, professor of International Relations at George Washingotn University. Excerpt from his article "Preparing to Go to War with China". Publihsed by the Huffington Post on July 2, 2013 http://www.huffingtonpost.com/amitai-etzioni/preparing-to-go-to-war-wi\_b\_3533398.html ) JA

Officials emphasize that ASB is not directed at any one nation. However, no country has invested nearly as much in A2/AD as China and few international environments are more contested -- than the waters of the Asia-Pacific. Hence, while in the past the U.S. could send in a couple aircraft carriers as a credible display of force, as it did in 1996 when the Chinese conducted a series of missile tests and military exercises in the Strait of Taiwan, in the not-so-distant future Chinese anti-ship missiles could deny U.S. access to the region. Thus, it is not surprising that one senior Navy official overseeing modernization efforts stated that, "Air-Sea Battle is all about convincing the Chinese that we will win this competition." Although much of the ASB remains classified, in May of this year the Navy released an unclassified summary that illuminates how the concept is beginning to shape the military's plans and acquisitions. In 2011, the Pentagon set up the Air-Sea Battle Office to coordinate investments, organize war games, and incorporate the ASB concept in training and education across all four Services. A Congressional Research Service report notes that "the Air-Sea Battle concept has prompted Navy officials to make significant shifts in the service's FY2014-FY2018 budget plan, including new investments in ASW, electronic attack and electronic warfare, cyber warfare, the F-35 Joint Strike Fighter (JSF), the P-8A maritime patrol aircraft, and the Broad Area Maritime Surveillance (BAMS) UAV [Unmanned Aerial Vehicle]." Critics of Air-Sea Battle warn that it is inherently escalatory and could even precipitate a nuclear war. Not only will the U.S.'s development of ASB likely accelerate China's expansion of its nuclear, cyber, and space weapons programs, but according to Joshua Rovner of the U.S. Naval War College, the early and deep inland strikes on enemy territory envisioned by the concept could be mistakenly perceived by the Chinese as preemptive attempts to take out its nuclear weapons, thus cornering them into "a terrible use-it-or-lose-it dilemma." Hence, some call for "merely" imposing a blockade on China along the first island chain (which stretches from Japan to Taiwan and through the Philippines) in order to defeat an aggressive China without risking a nuclear war.

**U.S hegemony will cause U.S China war which escalates to global war**

Hareshan 2013 ( Mihai Hareshan, writer for the nine o'clock which is a news website that provides global information on multiple different international issues. Based in Romania. Excerpt from "US-China war plans". Published by nine o'clock news on July 16, 2013 at 9:00 PM http://www.nineoclock.ro/us-china-war-plans/ ) JA

According to the theory of international relations, the (global) systematic order usually changes through a generalised war named hegemony. This war usually erupts when the leader of the system – in the present situation the USA – is in danger of being replaced by the direct challenger, which today is China. At stake in this fight is taking the systemic leadership and founding a new order, profitable to the new hegemon, i.e. the eventual winner. As it is known, following an exponential economic increase for the last three decades, China now ranks second systemically, from an economic point of view – if we do not see the EU as a sole political entity – and trustworthy forecasts show that it will also outpace the USA in the coming years (in terms of economic volume, not as GDP per capita). It is equally known, especially after a recent book written by Joseph Nye Jr., that it is not only the GDP which gives the measure of a state’s power. HHHHHHHHHAnd, from this perspective, the USA seems to be irreplaceable at the top of the system of states for the next generation. Historic practice shows that, in conditions of a competition between hegemon and the main contender being installed at the top of the system, with the power gap between them narrowing gradually, the possibility of a hegemonic war is very high and the conflict can start from a calculation (the kind of: it is the last moment when the challenger can be stopped, or the hegemon can be defeated) or by accident. This period of tension induced by the competition at the peak of the system is reflected through a succession of crises that involve these actors or their allies, as well as through an arms race that grows incessantly. From this last perspective, one enters what is called – in theory – ‘the prisoner’s dilemma’ which states that perceptions, rather than realities, hidden by the absence of transparency, play the essential role in the major decisions of peace and war. Many experts take into consideration the fact that today the system undergoes such a period of uncertainty, marked by power crises and competition between the big actors of international relations.

**Hegemony is the motive for terrorism**

Stern 2005 ( Jessica, a fellow at the [FXB Center for Health and Human Rights](http://harvardfxbcenter.org/) at the Harvard School of Public Health. She is an Advanced Academic Candidate at the [Massachusetts Institute of Psychoanalysis](http://www.mipsa.org/) and one of the foremost experts on terrorism. She serves on the Hoover Institution Task Force on National Security and Law. In 2009, she was awarded a Guggenheim Fellowship for her work on trauma and violence. Excerpt from "Addressing the Causes of Terrorism : Culture". Publihsed by the Club de Madrid, March 8-11 2005. <http://media.clubmadrid.org/docs/CdM-Series-on-Terrorism-Vol-1.pdf> ) JA

Gardner Peckham does not believe that globalization is a motivating factor for terrorists: while globalization increases the flow of trade and ideas, thereby increasing terrorists’ capacity to do us harm, their interest in doing so is not a result of that process. The counterargument, which the author of this paper and other members of the working group subscribe to, is that globalization and the need to compete for jobs and ideas on a global scale feels humiliating, even if global productivity rises and although, on average, most people benefit. Terrorists find a way to augment and strengthen this feeling of humiliation among potential recruits. In this context, it is worth recalling the words of Bin Laden’s deputy, Ayman Al Zawahiri, who argues that it is better for the youth of Islam to pick up arms than to submit to the humiliation of globalization and Western hegemony

**Hegemony forces oppositional groups to terrorist ways**

COT institute et al 2008 ( Joint paper by the COT Institute for Safety, Security and Crisis Management; Netherlands Organization for Applied Scientific Research TNO; Fundacion para las Relaciones Internacionales y al Dialogo Exterior (ES); Danish Centre for International Studies and Human Rights; Institute of International Relations Prague; Clingendael Netherlands Institute of International Relations. No specific authors given. Excerpt from their joint paper "Concepts of Terrorism *Analysis of the rise, decline, trends and risk*". Published by the Sixth Framework Programme December 2008. <http://www.transnationalterrorism.eu/tekst/publications/WP3%20Del%205.pdf> )

Hegemony and inequality of power. When local or international powers possess an overwhelming power compared to oppositional groups, and the latter see no other realistic ways to forward their cause by normal political or military means, “asymmetrical warfare” can represent a tempting option. Terrorism offers the possibility of achieving high political impact with limited means.

**Massacres and loss of autonomy define U.S hegemony, empirics prove**

Taylor 2012 ( Lucy Taylor, VP of the Society for Latin American Studies, lecturer and professor at Prifysgol Aberystwyth University. Excerpt from "Decolonizing International Relations: Perspectives from Latin America". Published by International Studies Review in September 2012. wiley) JA

From a coloniality of power perspective embedded in contemporary Latin America, the most obvious binary which contributes to US dominance is the Native/settler binary. The USA was constructed through a process in which the superiority of northern European settler people and their worldviews was asserted over Native American societies. This took the form of on-going territorial, economic, and epistemological conquest over Native peoples throughout the period, but perhaps the most formative experience, according to Shari Huhndorf, was the drive West in the nineteenth century (2001). This pivotal moment of struggle and national myth formation consolidated the US nation-state in terms of territory, migration, and economic expansion, as well as solidifying its national identity (Huhndorf 2001: 19–64; Bender 2006: 193–241). The colonial project of western expansion was characterized by massacres, displacement, and deception, which decimated Native communities and asserted the settlers’ military, political, and epistemological dominance (D’Errico 2001). As land was settled, the country became subdued and the enclosure of Native Americans in Reservations served to confirm the hegemonic dominance of a nation-state, which could set the terms of limited Native autonomy (Ostler 2004). Moreover, the mythology of the White pioneer who built ranches and towns in the wilderness attempted to displace the Native peoples from their status of original Americans (Agnew and Sharp 2002; Wolfe 2006). This domination was territorial but also epistemic and ethnic, then, and the success, coherence, and completeness of political domination and ethnic silencing played a direct role in generating a coherent and complete vision of “America”. Thus, and in the words of Frederick Jackson Turner in 1893, “Moving westward, the frontier became more and more American” (quoted in Huhndorf 2005: 56). This dominance was confirmed by the capacity of US culture to appropriate Native imagery and practices in a wide range of scenarios from the movies to Scouting via World Fairs and fashion ([Huhndorf 2001: 19–78, 162–202](http://onlinelibrary.wiley.com.proxy.lib.umich.edu/doi/10.1111/j.1468-2486.2012.01125.x/full#b18)). Native Americans have never ceased to resist this onslaught and to express the agonies of the colonial wound and the fresh imaginaries of the colonial difference ([Alfred and Corntassel 2005](http://onlinelibrary.wiley.com.proxy.lib.umich.edu/doi/10.1111/j.1468-2486.2012.01125.x/full#b3); [Tyeeme Clark and Powell 2008](http://onlinelibrary.wiley.com.proxy.lib.umich.edu/doi/10.1111/j.1468-2486.2012.01125.x/full#b50)), but the “success” of the American Dream made for the dominance of the hegemonic settler culture ([Churchill 1997](http://onlinelibrary.wiley.com.proxy.lib.umich.edu/doi/10.1111/j.1468-2486.2012.01125.x/full#b11)).

**American hegemony is intertwined with racism and sexism**

Katzenstein et al 10 (Mary Fainsod Katzenstein, Leila Mohsen Ibrahim and Katherine D. Rubin. Katzenstein is a Professor of American Studies and professor of Government at Cornell University. Ibrahim and Rubin are PhD candiates at Cornell university. This paper "The Dark Side of American Liberalism and Felony Disenfranchisement" won the Heinz I. Eulau Award for the best journal article of the calendar year published by Perspectives on Politics December 2010. Proquest) JA

Two interpretive frameworks provide a conceptual starting point in any analysis of liberal and illiberal traditions within American democracy. These are the unitary liberalism of Tocquevillean provenance and the multiple-traditions critique of the liberal hegemony thesis developed by Rogers Smith. 19 The Tocquevillean thesis, as Rogers Smith depicts it, constitutes a long-lived "orthodoxy on American identity."20 The Tocquevillean perspective adheres to a view of American history that identifies the distinctive character of the nation as free-born, unburdened by the givens of aristocracy and status hierarchy. By dint of this history, Americans are seen as baptized in the waters of egalitarian ideals and liberal beliefs. Racism and other exclusionary beliefs and practices are bracketed as departures from rather than constitutive of a common national ideological core. In his multiple-traditions critique, by contrast, Rogers Smith describes this core national culture as an intertwining of three distinctive traditions: liberalism, republicanism, and exclusionary forms of Americanism.21The multiple traditions thesis sees American civic identity as forged through the historical forces of exclusionary as well as egalitarian, moralistic as well as tolerant, ascriptive as well as achievement-based norms and practices. The threads of exclusion are not just visible on the margins. The warp of racism, sexism, and other ascriptive beliefs and practices is fully intertwined among the weft of liberalism and republicanism.

## Democracy Bad –

**Democracy promotion leads to instability in the Middle East—empirics**

 [Shadi Hamid=Director of Research, Brookings Doha Center, “The Struggle for Middle East Democracy”, April 26, 2011, http://www.brookings.edu/research/articles/2011/04/26-middle-east-hamid]

It always seemed as if Arab countries were ‘on the brink.’ It turns out that they were. And those who assured us that Arab autocracies would last for decades, if not longer, were wrong. In the wake of the Tunisian and Egyptian revolutions, academics, analysts and certainly Western policymakers must reassess their understanding of a region entering its democratic moment. What has happened since January disproves longstanding assumptions about how democracies can—and should—emerge in the Arab world. Even the neoconservatives, who seemed passionately attached to the notion of democratic revolution, told us this would be a generational struggle. Arabs were asked to be patient, and to wait. In order to move toward democracy, they would first have to build a secular middle class, reach a certain level of economic growth, and, somehow, foster a democratic culture. It was never quite explained how a democratic culture could emerge under dictatorship. In the early 1990s, the United States began emphasizing civil society development in the Middle East. After the attacks of September 11, 2001, the George W. Bush administration significantly increased American assistance to the region. By fiscal year 2009, the level of annual U.S. democracy aid in the Middle East was more than the total amount spent from 1991 to 2001. But while it was categorized as democracy aid, it wasn’t necessarily meant to promote democracy. Democracy entails ‘alternation of power,’ but most NGOs that received Western assistance avoided anything that could be construed as supporting a change in regime. The reason was simple. The United States and other Western powers supported 'reform,' but they were not interested in overturning an order which had given them pliant, if illegitimate, Arab regimes. Those regimes became part of a comfortable strategic arrangement that secured Western interests in the region, including a forward military posture, access to energy resources and security for the state of Israel. Furthermore, the West feared that the alternative was a radical Islamist takeover reminiscent of the Iranian revolution of 1979. The regimes themselves — including those in Egypt, Jordan, Morocco, Algeria, and Yemen — dutifully created the appearance of reform, rather than its substance. Democratization was ‘defensive’ and ‘managed.’ It was not meant to lead to democracy but rather to prevent its emergence. What resulted were autocracies always engaging in piecemeal reform but doing little to change the underlying power structure. Regime opponents found themselves ensnared in what political scientist Daniel Brumberg called an 'endless transition.' This endless transition was always going to be a dangerous proposition, particularly in the long run. If a transition was promised and never came, Arabs were bound to grow impatient.

**Democracy promotion has led to each world war—empirical imperialism backlash**

[Francis Boyle professor of international law at the University Of Illinois College Of Law, “Unlimited Imperialism and the Threat of World War III. U.S. Militarism at the Start of the 21st Century The Legacy of Two World Wars”, December 25 2012, Global Research, http://www.globalresearch.ca/unlimited-imperialism-and-the-threat-of-world-war-iii-u-s-militarism-at-the-start-of-the-21st-century/5316852]

Historically, this latest eruption of American militarism at the start of the 21st Century is akin to that of America opening the 20th Century by means of the U.S.-instigated Spanish-American War in 1898. Then the Republican administration of President William McKinley stole their colonial empire from Spain in Cuba, Puerto Rico, Guam, and the Philippines; inflicted a near genocidal war against the Filipino people; while at the same time illegally annexing the Kingdom of Hawaii and subjecting the Native Hawaiian people (who call themselves the Kanaka Maoli) to near genocidal conditions. Additionally, McKinley’s military and colonial expansion into the Pacific was also designed to secure America’s economic exploitation of China pursuant to the euphemistic rubric of the “open door” policy. But over the next four decades America’s aggressive presence, policies, and practices in the “Pacific” would ineluctably pave the way for Japan’s attack at Pearl Harbor on Dec. 7, 194l, and thus America’s precipitation into the ongoing Second World War. Today a century later the serial imperial aggressions launched and menaced by the Republican Bush Jr. administration and now the Democratic Obama administration are threatening to set off World War III. By shamelessly exploiting the terrible tragedy of 11 September 2001, the Bush Jr. administration set forth to steal a hydrocarbon empire from the Muslim states and peoples living in Central Asia and the Persian Gulf and Africa under the bogus pretexts of (1) fighting a war against international terrorism; and/or (2) eliminating weapons of mass destruction; and/or (3) the promotion of democracy; and/or (4) self-styled “humanitarian intervention”/responsibility to protect. Only this time the geopolitical stakes are infinitely greater than they were a century ago: control and domination of two-thirds of the world’s hydrocarbon resources and thus the very fundament and energizer of the global economic system – oil and gas. The Bush Jr./ Obama administrations have already targeted the remaining hydrocarbon reserves of Africa, Latin America, and Southeast Asia for further conquest or domination, together with the strategic choke-points at sea and on land required for their transportation. In this regard, the Bush Jr. administration announced the establishment of the U.S. Pentagon’s Africa Command (AFRICOM) in order to better control, dominate, and exploit both the natural resources and the variegated peoples of the continent of Africa, the very cradle of our human species. Libya and the Libyans became the first victims to succumb to AFRICOM under the Obama administration. They will not be the last. This current bout of U.S. imperialism is what Hans Morgenthau denominated “unlimited imperialism” in his seminal work Politics Among Nations (4th ed. 1968, at 52-53): “The outstanding historic examples of unlimited imperialism are the expansionist policies of Alexander the Great, Rome, the Arabs in the seventh and eighth centuries, Napoleon I, and Hitler. They all have in common an urge toward expansion which knows no rational limits, feeds on its own successes and, if not stopped by a superior force, will go on to the confines of the political world. This urge will not be satisfied so long as there remains anywhere a possible object of domination–a politically organized group of men which by its very independence challenges the conqueror’s lust for power. It is, as we shall see, exactly the lack of moderation, the aspiration to conquer all that lends itself to conquest, characteristic of unlimited imperialism, which in the past has been the undoing of the imperialistic policies of this kind… “ It is the Unlimited Imperialists along the lines of Alexander, Rome, Napoleon and Hitler who are now in charge of conducting American foreign policy. The factual circumstances surrounding the outbreaks of both the First World War and the Second World War currently hover like twin Swords of Damocles over the heads of all humanity.

## Solvency Takeout –

**The AFF reforms are a joke, nothing about the actual surveillance will change, Executive order 12333 means surveillance will not be hampered.**

Cyrus **Farivar**, writer for Arstechnica, “Even former NSA chief thinks USA Freedom Act was a pointless change “And this is it after two years? Cool!”” - Jun 17, **2015** http://arstechnica.com/tech-policy/2015/06/even-former-nsa-chief-thinks-usa-freedom-act-was-a-pointless-change/

The former director of the National Security Agency isn’t particularly concerned about the loss of the government’s bulk metadata collection under Section 215 of the Patriot Act. As Gen. Michael Hayden pointed out in an interview at a Wall Street Journal conference on Monday, the only change that has happened is that data has moved to being held by phone companies, and the government can get it under a court order. **Hayden said**: If somebody would come up to me and say, “Look, Hayden, here’s the thing: This Snowden thing is going to be a nightmare for you guys for about two years. And when we get all done with it, what you’re going to be required to do is that little 215 program about American telephony metadata—and by the way, you can still have access to it, but you got to go to the court and get access to it from the companies, rather than keep it to yourself”—I go: “**And this is it after two years? Cool!”** The NSA and the intelligence community as a whole still have many other technical and legal tools at their disposal, including the little-understood Executive Order 12333, among others. That document, known in government circles as "twelve triple three," gives incredible leeway to intelligence agencies sweeping up vast quantities of Americans' data. That data ranges from e-mail content to Facebook messages, from Skype chats to practically anything that passes over the Internet on an incidental basis. In other words, EO 12333 protects the tangential collection of Americans' data even when Americans aren't specifically targeted—otherwise it would be forbidden under the Foreign Intelligence Surveillance Act (FISA) of 1978.

**A specialty advocate would be ineffective in creating space for challenges to surveillance measures because of their lack of power in the process.**

Marty **Lederman** **and** Steve **Vladeck** The Constitutionality of a FISA “Special Advocate” Monday, November 4, **2013** http://justsecurity.org/2873/fisa-special-advocate-constitution/

The Privacy and Civil Liberties Oversight Board (PCLOB) is holding a day-long hearing today on possible reforms to the NSA’s surveillance activities—especially those conducted pursuant to section 215 of the USA PATRIOT Act and section 702 of the Foreign Intelligence Surveillance Act (FISA). The discussion likely will focus on the legal and policy wisdom of various of the competing reform proposals (which Lawfare summarized here), one of the common themes of which is the authorization of a “special advocate,” i.e., a security-cleared lawyer who could present adversarial briefing and argument before the FISA Court (FISC) in at least some cases (such as those raising significant legal questions). A new Congressional Research Service report raises some constitutional questions about such a reform. As we explain in the post that follows, however, most of those questions are insubstantial or inapposite—or at the very least can be avoided by using appropriate statutory language. On the other hand, one of those questions is substantial—namely, whether the special advocate would have the constitutional authority to appeal a FISC ruling. Even so, it is not clear such an authority would be necessary in order to ensure more frequent appellate review in appropriate cases. Accordingly, whatever one thinks of the merits of a special advocate as a policy matter, we don’t believe there is any fundamental constitutional impediment to legislation that would authorize a role for such an advocate. I. Would the Special Advocate be an “Officer of the United States” Subject to the Appointments Clause? The CRS Report begins with an extended analysis of purported Appointments Clause issues surrounding the special advocate, including whether she would be a “principal” officer (who could therefore only be appointed by the President with the advice and consent of the Senate), or an “inferior” officer (who could be appointed by the President, by the head of a Department or by a court). The CRS Report appears to assume that the special advocate would not be appointed in a manner allowed under the Appointments Clause. That assumption may well be mistaken, depending on the bill in question. More fundamentally, however, the CRS Report’s analysis depends upon a fundamental, mistaken assumption that the special advocate would be an officer of the United States in the first place. But she would not. For one thing, the advocate would not necessarily be someone appointed to a position of employment within the federal government—she could instead be someone assigned on a case-by-case basis to file briefs before the FISC, or a federal contractor, in which case she would not be an “officer” subject to the Appointments Clause. (See subsections II-B-1-a and II-B-1-c of this OLC memo.) In any event, even if the legislation provided that the advocate were to be appointed to a position of employment in the federal government, she would not exercise significant government authority pursuant to federal law, and thus would not be an officer for Appointments Clause purposes. (See subsection I-B-1-b of that 1996 OLC memo.) The role of the advocate would be solely to present legal arguments to the FISC, as an attorney does when appointed as an amicus by the Supreme Court to represent an undefended position in a case before the Court. (See Marty’s discussion of the Court’s practice.) Nothing the advocate would do would have any binding effect upon any entity. (And even if the particular legislation in question provided that the special counsel was to be a “representative” of third parties affected by the proposed order (such as the U.S. persons whose metadata were collected under section 215, or the U.S. persons whose communications are collected in a section 702 surveillance), that would not give the special advocate the power to exercise significant governmental authority.) The CRS Report reaches the contrary conclusion by referring to the Supreme Court’s holding in Buckley v. Valeo that Federal Election Commissioners were officers, in part because they were assigned the authority to bring suit against private parties, on behalf of the federal government, to compel compliance with federal election laws. See 424 U.S. at 138. But the special advocate would have no such authority. She would not be empowered to commence a lawsuit to compel compliance with federal law, let alone to do so on behalf of the government; instead, she would merely be allowed to participate as an attorney in cases already filed in the FISC by the government itself. Accordingly, legislation providing for a special advocate would not raise any Appointments Clause issue. II. Article III Adverseness and the FISA Court The heart of the CRS Report curiously focuses on an issue that is not really related to the question of whether a special advocate would be constitutional—namely, whether the FISC process itself complies with Article III. Article III’s limitation of the federal judicial function to “Cases” or “Controversies” generally requires that federal courts adjudicate only concrete disputes between parties with adverse interests. FISC proceedings, of course, are almost always ex parte and nonadversarial—they consist, in essence, of an Article III judge determining ex ante whether a proposed executive branch operation would be lawful. That’s not the sort of thing Article III courts are generally empowered to do. The CRS Report is therefore correct that this basic characteristic of FISA raises a significant constitutional question. Indeed, in testimony before Congress in connection with consideration of the original FISA, future circuit (and FISA Court of Review) judge Laurence Silberman argued that the ex parte nature of FISA proceedings was inconsistent with Article III. OLC Assistant Attorney General John Harmon opined to the contrary in those hearings, noting that the FISA approval process was in many respects analogous to the traditional function of courts adjudicating the lawfulness of proposed search warrants—an historical exception to the requirement of adversary proceedings for Article III courts, premised on the theory that such warrant proceedings are ancillary to possible future criminal (or civil) proceedings in Article III courts in which the validity of the warrant might be subject to full adversarial scrutiny. Lower courts subsequently agreed with OLC that the FISA process did not transgress Article III. To be sure, more recent amendments to FISA have placed considerable pressure on the warrant analogy that supported the Harmon OLC analysis. Unlike in the original FISA, for example, production orders under section 215 and certifications under section 702 don’t so closely resemble traditional warrants, and are far less likely to be subject to subsequent adversarial challenge. They thus raise a more difficult Article III adverseness question. (The ACLU’s original litigation challenging Section 702 raised that question directly—see pages 49-51 of this brief—but it was left unresolved when the Court held in Clapper that the ACLU lacked standing.) On the other hand, both authorities include express authorizations for the recipient (of 215 orders or 702 directives) to contest cases initiated by the government—thus, perhaps, providing for the requisite Article III adverseness in the event the warrant analogy is unavailing. But regardless of the ultimate merits of this Article III question, the important point for present purposes is that the creation of a special advocate could hardly be said to raise it. Indeed, we’re hard-pressed to see why the additional participation of another lawyer, in order to present to the court a position adverse to the government, would exacerbate any Article III concerns about the lack of adverseness. To the contrary. The CRS Report also questions the “standing” of the special advocate to participate before the FISA Court, but this, too, is a red herring. The “case” in question is initiated by the government. If the legislation is properly drafted, the “special advocate” would be merely a lawyer, not a party to the case—or, perhaps, the attorney for third parties whose metadata or communications are at issue. Accordingly, so long as the proceeding before the FISA Court already satisfies Article III, then the statutory inclusion of an additional lawyer should raise no new Article III concerns. III. Constitutional Standing to Appeal The CRS Report does identify one genuinely significant constitutional question—namely, whether a special advocate would have Article III standing to appeal a FISC decision to the FISA Court of Review (and ultimately to the Supreme Court). As the Supreme Court held in the Proposition 8 case this June, a party seeking to appeal a judgment must have a direct and personal stake in the outcome of the appeal. If the special advocate would not be a party to the case, or even an attorney representing a party who might be adversely affected by a FISC order, it is doubtful she would have standing to appeal such an order. But although the CRS Report suggests this concern may be fatal, it fails to consider other potential mechanisms for ensuring more frequent appellate review. Perhaps, for instance, the legislation could provide that the special advocate would be a representative of affected but absent third parties (such as the U.S. persons whose metadata were collected under section 215, or the U.S. persons whose communications are collected in a section 702 surveillance), akin to a guardian ad litem. Or perhaps the legislation might require FISA Court of Review confirmation of a FISC judge’s ruling as a condition for the government to proceed with proposed surveillance or collection in certain cases raising novel and important questions of law. Alternatively, in the section 215 and similar contexts, perhaps the legislation could create greater incentives for the recipient of orders (e.g., the service providers) to appeal in cases where the special advocate has appeared and would be able to bear the burden of briefing and argument on appeal. Crafting one or more such provisions is the most serious constitutional challenge for proponents of a special advocate; but, in contrast to the CRS Report, we are not convinced that it is necessarily an insurmountable challenge. And, more importantly for present purposes, this challenge does not change the fact that there are no substantial constitutional difficulties in authorizing participation of a special advocate before the FISC itself. In sum, reasonable minds may differ as to whether Congress should authorize a role for a special advocate. And certainly such a proposal would raise considerable practical concerns that would necessarily shape the specifics of any legislation (see, e.g., David Kris’s discussion at pages 36-41 of his paper on section 215.) But as long as Congress provides that such an advocate would be merely another lawyer participating in proceedings before the FISA Court and FISA Court of Review (either as an amicus or as a representative of third parties), such a reform should not raise any new constitutional concerns, at least so long as the advocate is not afforded a statutory right on her own behalf to appeal FISC decisions.

**Privacy advocates would simply be ignored by the courts just like they do with the option to use an amicus council now.**

Gregory T. **Nojeim** “FISA court advocate helpful, but no replacement for ending mass surveillance” November 1, **2013** http://blog.constitutioncenter.org/2013/11/fisa-court-advocate-helpful-but-no-replacement-for-ending-mass-surveillance/

Revelations regarding the scope of NSA surveillance suggest a failure of oversight mechanisms designed to prevent improper surveillance. Members of Congress have introduced legislation to remedy that failure in part by creating an office that would advocate for privacy in proceedings before the Foreign Intelligence Surveillance Act (FISA) Court. This is would be a positive development, but by no means would it ensure privacy protections for innocent citizens. The FISA Court was designed to provide independent oversight and prevent improper invasions of privacy, just as the warrant requirement for police searches does, while at the same time meeting the needs of expediency and secrecy that are unique to foreign intelligence investigations. However, the Court’s activity in recent years has raised concerns. The Electronic Privacy Information Center compiled a report concluding that the FISA Court rejected only two of 8,591 FISA applications it received between 2008 and 2012. This has lead some commentators such as Glenn Greenwald and Ezra Klein to say that it provides ineffective oversight and acts as a mere “rubber stamp” for surveillance. The FISA Court has fought back, stating in a letter to Senator Charles Grassley (R-Iowa) that substantive changes were made to 24.4 percent of government requests between July and September of this years as a result of FISA Court review, however the specific nature of these changes and the orders they affected was not disclosed. Whatever the truth, several factors erode trust in the FISA Court, the foremost being that it operates secretly and issues important decisions in a one-sided process in which only the government is represented. This inhibits the Court from giving adequate consideration to arguments against surveillance, and leaves the government free to make flawed or unsubstantiated assertions without fear of rebuttal. One-sided FISA Court proceedings has led to the development of an unnatural collaborative relationship between clerks of the court and the Department of Justice lawyers who submit surveillance applications to the FISA Court. In response to this problem, Senator Richard Blumenthal (D-CT) introduced legislation, S.1467, to create an independent Special Advocate within the Executive Branch who would “vigorously [advocate] before the FISA Court or the FISA Court of Review … in support of legal interpretations that minimize the scope of surveillance and the extent of data collection and retention.” The Special Advocate would review every application to the FISA Court, and could ask to participate in any FISA Court proceeding, although the FISA Court has the authority to deny such requests. The Special Advocate could also request that outside parties be granted the ability to file amicus curiae briefs with the Court, or participate in oral arguments. The Special Advocate could also appeal FISA Court decisions – including requests to participate and substantive decisions regarding surveillance applications – to the FISA Court of Review and the Supreme Court. Finally, the Special Advocate could petition for public disclosure of decisions and other relevant documents held by the FISA Court. Picking up on this idea, Senator Ron Wyden (D-OR) included a “Constitutional Advocate” in his FISA reform bill, the Intelligence Oversight and Surveillance Reform Act (S. 1551) and Senator Patrick Leahy (D-VT) and Representative James Sensenbrenner (R-WI) included a similar provision in their USA Freedom Act, which was introduced on October 29. Several improvements could strengthen the “Special Advocate” legislation. First, advocating protection of privacy and civil liberties should be added to the duties of the Office of the Special Advocate. While the current charge to advocate for minimizing the scope of data collection is helpful, sometimes consideration of broader civil liberties interests is appropriate. In addition, the Privacy and Civil Liberties Oversight Board should choose the Special Advocate, rather than selecting a slate of candidates from which the Chief Judge of the FISA Court would choose, as is suggested in the Blumenthal bill. Finally, the Special Advocate, not the FISA Court, should decide in which cases the Special advocate would have a voice. Otherwise, he or she could be barred from participating in most proceedings. Inserting a Special Advocate in FISA Court proceedings – particularly one charged with making those proceedings more transparent – would go some distance toward restoring trust in intelligence surveillance. But, it is no substitute for clearer, more restrictive rules about the information that can be collected for intelligence purposes, particularly when that information pertains to Americans. In other words, having a Special Advocate is no panacea; it is far more important that Congress act to end the bulk collection of metadata about communications.

## FISA Offense –

**Turn, the AFF simply engaging in reformism and keeping intrusive Federal programs like FISA around actually creates more terrorists.**

**Berkowitz 14**

SUNDAY, AUG 3, 2014 10:00 AM MDT How the FBI is creating terrorists A damning new report suggests the bureau facilitates and sometimes even invents its targets' willingness to act By BILL BERKOWITZ.

**Let’s start with a premise I think we can all agree with: There have been no 9/11-type attacks on United States soil since, well, 9/11. Here’s another statement we all probably agree with: The federal government has all sorts of arrows in its quiver when it comes to gathering intelligence to thwart such attacks. And that is where it begins to gets dicey: Unfortunately, in its counterterrorism project, the government appears to be relying more and more on perhaps the most twisted of those arrows; the use of informants, coerced and/or rewarded, entrapment, and the sting.** Since the September 2001 terrorist attacks on the Twin Towers and the Pentagon, the federal government has obtained more than 500 federal counterterrorism convictions. According to a new Human Rights Watch report (produced in association with Columbia Law School’s Human Rights Institute), “nearly 50 percent of [those] … convictions resulted from informant-based cases; almost 30 percent of those cases were sting operations in which the informant played an active role in the underlying plot.”The report, “Illusion of Justice: Human Rights Abuses in US Terrorism Prosecutions,” points out that, while “[m]any prosecutions have properly targeted individuals engaged in planning or financing terror attacks… **many** others **have targeted individuals who do not appear to have been involved in terrorist plotting or financing at the time the government began to investigate them. “Indeed, in some cases the Federal Bureau of Investigation may have created terrorists out of law-abiding individuals by conducting sting operations that facilitated or invented the target’s willingness to act.”** In addition**, there is a good chance that, without the government’s active participation, many of those ensnared by the government did not have the mental or intellectual capacity to plan, finance and/or carry out a terrorist event. “Americans have been told that their government is keeping them safe by preventing and prosecuting terrorism inside the US,” said Andrew Prasow, Human Rights Watch’s deputy Washington director, in a statement. “But take a closer look and you realize that many of these people would never have committed a crime if not for law enforcement encouraging, pressuring, and sometimes paying them to commit terrorist acts.”**

**The plan removes the secrecy from FISA programs that we need to continue to prevent terror attacks**

**Gross 13**

U.S. officials: Surveillance programs helped stop 50 terrorist plots Grant Gross covers technology and telecom policy in the U.S. government for the IDG News Service, and is based in Washington, D.C. <http://www.pcworld.com/article/2042340/us-officials-surveillance-programs-helped-stop-50-terrorist-plots.html>

**U.S. law enforcement agencies have disrupted more than 50 terrorist plots in the United States and other countries with the help of controversial surveillance efforts at the U.S. National Security Agency**, government officials said Tuesday. **NSA surveillance programs** recently exposed by NSA contractor Edward Snowden **have played a key role in disrupting terrorist activity in more than 20 countries, including 10 terrorist plots in the U.S., since the September 11, 2001, terrorist attacks on the U.S.**, NSA director General Keith Alexander told U.S. lawmakers. **“In the 12 years since the attacks on Sept. 11, we have lived in relative safety and security as a nation,”** Alexander told the U.S. House of Representatives Intelligence Committee. **“That security is a direct result of the intelligence community’s quiet efforts to better connect the dots and learn from the mistakes that permitted those attacks to occur on 9/11.” NSA surveillance authorized by Congress through the Patriot Act and the FISA Amendments Act helped disrupt plots to attack the New York Stock Exchange and the New York subway system, as well as a plot to bomb a Danish newspaper that published a cartoon of the Prophet Muhammad,** officials said. Intelligence officials said they will detail classified information about other thwarted attacks lawmakers soon, they said.

**FISA Secrecy is key to functionality, the AFF makes surveillance too visible to work properly – threatens national security.**

**O’Niell 2014**

(FEBRUARY 22, 2014 Ben O'Neill, FISA, the NSA, and America’s Secret Court System, https://mises.org/library/fisa-nsa-and-america%E2%80%99s-secret-court-system)

We begin our analysis of the legal machinations of the NSA by looking at the secret court system which supposedly practices judicial oversight over the agency. This Foreign Intelligence Surveillance Court (FISA Court1 or FISC) was created in 1978 as a result of recommendations of the Church Committee, composed after a series of intelligence scandals in the 1970s. The court was purportedly created as an additional safeguard against unlawful activity by US intelligence agencies, which had been found to have committed various kinds of unlawful surveillance activities. The goal of the FISA court, as originally conceived, was to place judicial oversight on the surveillance activities of the NSA, by requiring the agency to obtain warrants from the court before intercepting communications. This was to place the NSA under the same kind of legal constraints as regular police, with requirements for evidence being put before a court in order to obtain a warrant for search. However, unlike the court system for regular police warrants, the judicial system for the NSA is far more secretive. In order to give judicial scrutiny to preserve the secrecy of NSA activities, the FISA court meets in secret with only government representatives present at its proceedings. The hearings are closed to the public and the rulings of the judges are classified, and rarely released after the fact. (Some rulings applications from a representative of the NSA, and ask questions, allowing the agency to amend their applications to meet any shortcomings. Adversarial argument from other parties is absent, since there are no other parties at the hearing. Some of this is similar to the operation of public courts for regular police warrants, but there is a great deal more secrecy, and a great deal more power granted to the government. One distinction between the FISA Court, and regular public courts issuing warrants for police searches, is the type of warrant system that is practiced under the FISA Court. For police searches it is generally the case that the police will apply for a warrant to surveil a particular person, or a small group or people, and give some evidence of “probable cause” for a search, i.e., the police must convince the court that there is reasonable suspicion for surveillance on a case-by-case basis. Under the FISA Court the warrants for the NSA are much wider in scope. Many of the warrants authorize the collection of communications data on a particular phone carrier, capturing the communications of millions of people over sustained periods of time. Other warrants are “procedure-based” warrants which authorize a proposed data-collection process, subject to various “minimization procedures” designed to confine the querying of data. These generally allow mass data-collection on a population, with application of the minimization procedures left to the NSA.

**The intrusiveness of FISA Courts’ rulings are key to preventing terror**

**McCarthy 2013**

The National Review: Phone Record Gathering Story Blown Out of Proportion By Andrew C. McCarthy: http://www.nationalreview.com/corner/350331/phone-record-gathering-story-blown-out-proportion-andrew-c-mccarthy

By gathering massive amounts of telephone traffic information, the government is able to establish phone call patterns, which is vital for mapping terrorist organizations. Without this, you cannot have preventive, intelligence-based counterterrorism – i.e., counterterrorism whose goals are to identify terror cells before they strike and to stop atrocities from happening. By contrast, Section 215 of the Patriot Act (which I wrote in support of when it was reauthorized a few years back) requires the government to go to the FISA court for permission to get business records, including phone records. Remember too: it is simply an inevitable fact that, in every investigation, whether done for national-security under FISA or under ordinary law-enforcement procedures, the government always gathers more information than it needs – including lots of information about innocent people. The government cannot gather the information it needs to protect us without coincidentally collecting lots of information about innocent people.