# Round 4 --- Neg vs NU MS

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The aff must remove a restriction on energy production

Anell 89

Chairman, WTO panel

 "To examine, in the light of the relevant GATT provisions, the matter referred to the

CONTRACTING PARTIES by the United States in document L/6445 and to make such findings as will assist the CONTRACTING PARTIES in making the recommendations or in giving the rulings provided for in Article XXIII:2." 3. On 3 April 1989, the Council was informed that agreement had been reached on the following composition of the Panel (C/164): Composition Chairman: Mr. Lars E.R. Anell Members: Mr. Hugh W. Bartlett Mrs. Carmen Luz Guarda CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5 December 1989 (L/6568 - 36S/68)

<http://www.wto.org/english/tratop_e/dispu_e/88icecrm.pdf>

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

**Violation: the plan removes restrictions for titles to Native lands---not on energy production---their Unger and Green ev proves.**

**That’s bad and a voting issue---overstretches our research burden, skews ground to the aff, and makes being neg impossible.**

### Immigration

**CIR will pass —Momentum, Obama’s pushing and the Senate and House are close to a deal**

Mali, 3-25-13, The Hill, Obama to host new citizens, push for action on immigration reform, [Meghashyam], p. http://thehill.com/blogs/blog-briefing-room/news/290053-obama-to-host-new-citizens-press-congress-on-immigration-reform

President Obama will host a naturalization ceremony on Monday for 28 new citizens, including 13 service members, at the White House. The move comes as the president continues to press lawmakers to pass comprehensive immigration reform, one of his second-term priorities. Obama will be joined by Homeland Security Secretary Janet Napolitano and U.S. Citizenship and Immigration Services Director Alejandro Mayorkas in the East Room. The president will deliver remarks at the ceremony, the White House announced. “The event underscores the contributions made to the United States by immigrants from all walks of life, including the foreign-born members of the U.S. Armed Forces, as well as our shared history as a nation of immigrants,” said a White House official. “While the President remains pleased that Congress continues to make progress towards commonsense immigration reform, he believes Congress needs to act quickly, and he expects a bill to be introduced as soon as possible.” Bipartisan groups in both the House and Senate are moving closer to unveiling separate immigration reform proposals. The Senate’s “Gang of Eight” introduced their framework in January, calling for a pathway to citizenship, heightened border security, increased high-skilled immigration and a guest worker program. But since then, senators have been tied down in negotiations over the details of the plan, with many key issues still unresolved. Reports last week, though, said that sources close to the talks said they hoped to have a bill by the end of April. The bipartisan House group has yet to share details of their proposals, but their work has already received general support from leaders in both parties. Speaker John Boehner (R-Ohio) last week praised their work as a “pretty responsible solution.” House Minority Whip Steny Hoyer (D-Md.) said the group was “very close to an agreement,” and that lawmakers had made “real progress.” Advocates for immigration reform see a real chance that a bill could pass Congress this year, with growing momentum on both sides. But any immigration deal would need to pass muster with House GOP lawmakers, many of whom have said they will oppose measures that grant “amnesty” to illegal immigrants and have questioned proposed protections for gay or lesbian couples. But after the strong showing President Obama made among Hispanic voters in the 2012 election, a growing number of conservative lawmakers have signaled they would back immigration reform, including measures to provide a pathway to citizenship. Sen. Rand Paul (R-Ky.) unveiled his own proposal last week, which would first require strengthened border security before allowing illegal immigrants to apply for legal status. Paul’s support for eventual citizenship could help rally other conservative lawmakers to back reform. Obama has held similar naturalization ceremonies at the White House in prior years. In 2012, he marked the Fourth of July by helping to naturalize 25 active-duty service members. That ceremony came weeks after Obama had issued an executive order allowing many illegal immigrants who were brought over to the United States as children to remain in the country and avoid deportation.

**Political capital is key---Obama’s leading negotiations with the GOP**

AFP 2-19-13, “Obama courts key Republicans on immigration reform,” 2013, Factiva

US President Barack Obama on Tuesday called key Senate Republicans, with whom he is at odds on other many top issues, to discuss the prospects for bipartisan immigration reform.¶ Obama placed the calls following complaints he had not done enough to reach across the political aisle on the key issue, and after the leak of partial White House immigration plans angered Republican players in the debate.¶ The White House said that Obama had spoken to Republican Senators Lindsey Graham, John McCain and Marco Rubio, to discuss a "shared commitment to bipartisan, commonsense immigration reform."¶ "The President reiterated that he remains supportive of the effort underway in Congress, and that he hopes that they can produce a bill as soon as possible that reflects shared core principles on reform."¶ "He thanked the senators for their leadership, and made clear that he and his staff look forward to continuing to work together with their teams to achieve needed reform."¶ Obama's aides said he also wanted to speak to Republican Senator Jeff Flake, of Arizona, but was unable to reach him because he was traveling.¶ Cuban-American Rubio, a rising star of the Republican Party, is emerging as a key player in the immigration debate, and he warned that leaked versions of White House plans obtained by USA Today would be "dead on arrival."¶ Eight senators -- four of Obama's Democratic allies and four Republicans -- unveiled a joint plan last month aiming to provide a route to legal status for illegal immigrants living on US soil.¶ Under the White House fallback plan, illegal immigrants would have to wait eight years until applying for legal permanent residency, and, in practice, at least 13 years before they could apply for US citizenship.¶ Advocates of immigration reform say that time period is too long -- while conservative opponents still rail against "amnesty" for illegal immigrants, reflecting the toxicity of much of the immigration reform debate.¶ Obama had been sharply at odds with Graham and McCain for their role in delaying the confirmation of his pick for defense secretary Chuck Hagel.¶ His call to Rubio, who is traveling in the Middle East, came after the Florida senator's office had said that no one in his office had met White House officials to discuss immigration.¶ The White House had maintained that its staffers had met congressional officials working on immigration reform.¶ Obama's move may be seen as an effort to prevent partisan wrangling from derailing hopes of immigration reform, as it did under the presidency of his predecessor George W. Bush.¶ Immigration reform may be Obama's best chance for a genuine legacy-boosting success in his second term.¶ Senior Republicans, meanwhile, are wary of entering another election hampered by the mistrust of Hispanic voters, a growing slice of the electorate for whom immigration reform is a key issue.¶ A key sticking point in the debate is the Republican demand that the process of offering legal status to illegals should only start once the US southern border with Mexico has been certified as secure.¶ Obama has so far declined to make that linkage.

**Republicans oppose expanding self-determination**

Cornell & Kalt, 2010, American Indian Self-Determination: The Political Economy of a Policy that Works, November, HKS Faculty Research Working Paper Series [University of Arizona; Harvard Kennedy School; Stephen; Joseph], p. 27

As we look to the future, there are signs of instability in the support for self-determination. The rising economic and political clout of Indian nations are often seen as threats at the local level to non-Indian governments. Although beyond the scope of this study, this is raising inter-jurisdictional conflicts, often resulting in litigation. The general trend of outcomes in the U.S. courts has been a reining in, rather than an expansion, of tribal sovereignty over the last fifteen to twenty years. In Congress, too, there are signs of change. Most particularly, the oft-noted evolution of the Republican Party away from its libertarian strains and toward more aggressive support for social policymaking aimed at promoting particular conservative social norms and structures is suggesting a trend away from the Indian self-government movement. We might well predict that the next change to Republican control of the U.S. Congress will signal an end to policies of self-determination.

**CIR is key to US hegemony**

Nye, 2012, “Immigration and American Power,” December 10, Project Syndicate, [a former US assistant secretary of defense and chairman of the US National Intelligence Council, is University Professor at Harvard University; Joseph], p.http://www.project-syndicate.org/commentary/obama-needs-immigration-reform-to-maintain-america-s-strength-by-joseph-s--nye

CAMBRIDGE – The United States is a nation of immigrants. Except for a small number of Native Americans, everyone is originally from somewhere else, and even recent immigrants can rise to top economic and political roles. President Franklin Roosevelt once famously addressed the Daughters of the American Revolution – a group that prided itself on the early arrival of its ancestors – as “fellow immigrants.”¶ In recent years, however, US politics has had a strong anti-immigration slant, and the issue played an important role in the Republican Party’s presidential nomination battle in 2012. But Barack Obama’s re-election demonstrated the electoral power of Latino voters, who rejected Republican presidential candidate Mitt Romney by a 3-1 majority, as did Asian-Americans.¶ As a result, several prominent Republican politicians are now urging their party to reconsider its anti-immigration policies, and plans for immigration reform will be on the agenda at the beginning of Obama’s second term. Successful reform will be an important step in preventing the decline of American power.¶ Fears about the impact of immigration on national values and on a coherent sense of American identity are not new. The nineteenth-century “Know Nothing” movement was built on opposition to immigrants, particularly the Irish. Chinese were singled out for exclusion from 1882 onward, and, with the more restrictive Immigration Act of 1924, immigration in general slowed for the next four decades.¶ During the twentieth century, the US recorded its highest percentage of foreign-born residents, 14.7%, in 1910. A century later, according to the 2010 census, 13% of the American population is foreign born. But, despite being a nation of immigrants, more Americans are skeptical about immigration than are sympathetic to it. Various opinion polls show either a plurality or a majority favoring less immigration. The recession exacerbated such views: in 2009, one-half of the US public favored allowing fewer immigrants, up from 39% in 2008.¶ Both the number of immigrants and their origin have caused concerns about immigration’s effects on American culture. Demographers portray a country in 2050 in which non-Hispanic whites will be only a slim majority. Hispanics will comprise 25% of the population, with African- and Asian-Americans making up 14% and 8%, respectively.¶ But mass communications and market forces produce powerful incentives to master the English language and accept a degree of assimilation. Modern media help new immigrants to learn more about their new country beforehand than immigrants did a century ago. Indeed, most of the evidence suggests that the latest immigrants are assimilating at least as quickly as their predecessors.¶ While too rapid a rate of immigration can cause social problems, over the long term, immigration strengthens US power. It is estimated that at least 83 countries and territories currently have fertility rates that are below the level needed to keep their population constant. Whereas most developed countries will experience a shortage of people as the century progresses, America is one of the few that may avoid demographic decline and maintain its share of world population.¶ For example, to maintain its current population size, Japan would have to accept 350,000 newcomers annually for the next 50 years, which is difficult for a culture that has historically been hostile to immigration. In contrast, the Census Bureau projects that the US population will grow by 49% over the next four decades.¶ Today, the US is the world’s third most populous country; 50 years from now it is still likely to be third (after only China and India). This is highly relevant to economic power: whereas nearly all other developed countries will face a growing burden of providing for the older generation, immigration could help to attenuate the policy problem for the US.¶ In addition, though studies suggest that the short-term economic benefits of immigration are relatively small, and that unskilled workers may suffer from competition**,** skilled immigrants can be important to particular sectors – and to long-term growth. There is a strong correlation between the number of visas for skilled applicants and patents filed in the US. At the beginning of this century, Chinese- and Indian-born engineers were running one-quarter of Silicon Valley’s technology businesses, which accounted for $17.8 billion in sales; and, in 2005, immigrants had helped to start one-quarter of all US technology start-ups during the previous decade. Immigrants or children of immigrants founded roughly 40% of the 2010 Fortune 500 companies.¶ Equally important are immigration’s benefits for America’s soft power. The fact that people want to come to the US enhances its appeal, and immigrants’ upward mobility is attractive to people in other countries. The US is a magnet, and many people can envisage themselves as Americans, in part because so many successful Americans look like them. Moreover, connections between immigrants and their families and friends back home help to convey accurate and positive information about the US.¶ Likewise, because the presence of many cultures creates avenues of connection with other countries, it helps to broaden Americans’ attitudes and views of the world in an era of globalization. Rather than diluting hard and soft power, immigration enhances both.¶ Singapore’s former leader, Lee Kwan Yew, an astute observer of both the US and China, argues that China will not surpass the US as the leading power of the twenty-first century, precisely because the US attracts the best and brightestfrom the rest of the world and melds them into a diverse culture of creativity. China has a larger population to recruit from domestically, but, in Lee’s view, its Sino-centric culture will make it less creative than the US.¶ That is a view that Americans should take to heart. If Obama succeeds in enacting immigration reform in his second term, he will have gone a long way toward fulfilling his promise to maintain the strength of the US.

**Decline of US hegemony risks great power wars and trade wars**

Zhang & Shi, 2011, East Asia Forum, America’s decline: A harbinger of conflict and rivalry, January 22, [Carnegie Endowment for International Peace,Yuhan; Columbia University, Lin], p. http://www.eastasiaforum.org/2011/01/22/americas-decline-a-harbinger-of-conflict-and-rivalry/ (accessed: 9-6-2011)

Over the past two decades, no other state has had the ability to seriously challenge the US military. Under these circumstances, motivated by both opportunity and fear, many actors have bandwagoned with US hegemony and accepted a subordinate role. Canada, most of Western Europe, India, Japan, South Korea, Australia, Singapore and the Philippines have all joined the US, creating a status quo that has tended to mute great power conflicts. However, as the hegemony that drew these powers together withers, so will the pulling power behind the US alliance. The result will be an international order where power is more diffuse, American interests and influence can be more readily challenged, and conflicts or wars may be harder to avoid. As history attests, power decline and redistribution result in military confrontation. For example, in the late 19th century America’s emergence as a regional power saw it launch its first overseas war of conquest towards Spain. By the turn of the 20th century, accompanying the increase in US power and waning of British power, the American Navy had begun to challenge the notion that Britain ‘rules the waves.’ Such a notion would eventually see the US attain the status of sole guardians of the Western Hemisphere’s security to become the order-creating Leviathan shaping the international system with democracy and rule of law. Defining this US-centred system are three key characteristics: enforcement of property rights, constraints on the actions of powerful individuals and groups and some degree of equal opportunities for broad segments of society. As a result of such political stability, free markets, liberal trade and flexible financial mechanisms have appeared. And, with this, many countries have sought opportunities to enter this system, proliferating stable and cooperative relations. However, what will happen to these advances as America’s influence declines? Given that America’s authority, although sullied at times, has benefited people across much of Latin America, Central and Eastern Europe, the Balkans, as well as parts of Africa and, quite extensively, Asia, the answer to this question could affect global society in a profoundly detrimental way. Public imagination and academia have anticipated that a post-hegemonic world would return to the problems of the 1930s: regional blocs, trade conflicts and strategic rivalry. Furthermore, multilateral institutions such as the IMF, the World Bank or the WTO might give way to regional organisations. For example, Europe and East Asia would each step forward to fill the vacuum left by Washington’s withering leadership to pursue their own visions of regional political and economic orders. Free markets would become more politicised — and, well, less free — and major powers would compete for supremacy. Additionally, such power plays have historically possessed a zero-sum element. In the late 1960s and 1970s, US economic power declined relative to the rise of the Japanese and Western European economies, with the US dollar also becoming less attractive. And, as American power eroded, so did international regimes (such as the Bretton Woods System in 1973). A world without American hegemony is one where great power wars re-emerge, the liberal international system is supplanted by an authoritarian one, and trade protectionism devolves into restrictive, anti-globalisation barriers. This, at least, is one possibility we can forecast in a future that will inevitably be devoid of unrivalled US primacy.

### NEPA

**Affirmative plan guts NEPA review—TERAs require NEPA review now**

Lite & Ochoa, 2008, Requirements for Tribal Energy Resource Agreements Are Finalized By BIA, [Jeremy; Luis], p. http://www.martindale.com/indians-native-populations-law/article\_Quarles-Brady-LLP\_415558.htmtttjjjj

The process for applying for a TERA is lengthy and complex, and approval of a TERA itself requires analysis under NEPA, the National Environmental Policy Act. Among numerous other requirements, the TERA application process and final document will require interested tribes to: Describe the tribe's experience and expertise in negotiating and administering energy-related leases, business agreements and rights-of-way; Describe the tribe's competence to assume the duties that will be delegated to it in the final TERA; Discuss the relationship between the tribe and federal agencies, State and local governments, non-Indians and tribal members who may be affected by the TERA; Permit the BIA to revoke the tribe’s authority and "reassume all activities included within a TERA without the consent of the tribe" when the BIA finds there is "imminent jeopardy to a physical trust asset" or upon petition of an interested party; Establish a tribal environmental review and compliance process for each lease or agreement that mimics federal NEPA requirements and, according to BIA, actually "goes beyond the requirements of NEPA."

**Weakening NEPA will undermine US environmental leadership and support for NEPA abroad**

Schiffer 2004, Duke Environmental Law & Policy Forum, vol. 14, 325, Spring, 2004, [partner at Baach Robinson & Lewis PLLC in Washington, D.C., was Assistant Attorney General for the Environment and Natural Resources Division at the U.S. Department of Justice from 1994-2001, adjunct professor of environmental law at Georgetown University Law Center, and for Spring 2004 was a Lecturer for an environmental policy course at Harvard Law School; Lois], p.

So what is happening to NEPA as middle age wears on? This article will focus on two conditions of NEPA's advancing middle age. First, efforts by the Bush Administration to limit this important tool through statutory interpretation, litigation, and legislation to the detriment of the statute and to United States global leadership in environmental issues will be discussed. Then, the influence of NEPA beyond U.S. borders will be considered. NEPA's influence beyond U.S. borders, sometimes referred to as "extraterritorial application of NEPA," has long been contentious. It is a helpful case study of NEPA in an increasingly globalized world with growing concern about the United States' environmental leadership.¶ [continues 35 paragraphs later…]¶ IV. Conclusion ¶ So where has NEPA arrived in mature middle age? Inside the United States, it faces new and treacherous an obstacle from the Bush Administration, including limiting regulations, lack of funding, and occasionally being jilted at the courthouse door. Outside the United States, NEPA has taken on the status of role model to many countries and international organizations but may be shriveling behind this important role-model face. An example of obstacles inside the U.S. that affect its image outside the U.S. is the statute's application to agency decisions that cause impacts outside the U.S. or that cause impacts that flow across U.S. boundaries into other countries. This review reveals NEPA's narrowing over time, becoming particularly thin in the past several years. A better approach, particularly in a world that has globalized over NEPA's lifetime, is to interpret NEPA inside the U.S. so that it can present a proud face, backed by a strong body, as a role model throughout the world.

**US environmental leadership checks extinction by solving warming, biodiversity, oceans, soil, and the atmosphere**

Khosla, 2009, “A new President for the United States: We have a dream” , January 27, [International Union for Conservation of Nature President; Khosla], p. http://www.iucn.org/news\_homepage/news\_by\_date/2009\_news/january\_2009/?2595/new-President-for-the-United-States-We-have-a-dream

A rejuvenated America, with a renewed purpose, commitment and energy to make its contribution once again towards a better world could well be the turning point that can reverse the current decline in the state of the global economy, the health of its life support systems and the morale of people everywhere. This extraordinary change in regime brings with it the promise of a deep change in attitudes and aspirations of Americans, a change that will lead, hopefully, to new directions in their nation’s policies and action. In particular, we can hope that from being a very reluctant partner in global discussions, especially on issues relating to environment and sustainable development, the United States will become an active leader in international efforts to address the Millennial threats now confronting civilization and even the survival of the human species. For the conservation of biodiversity, so essential to maintaining life on Earth, this promise of change has come not a moment too soon. It would be a mistake to put all of our hopes on the shoulder of one young man, however capable he might be. The environmental challenges the world is facing cannot be addressed by one country, let alone by one man. At the same time, an inspired US President guided by competent people, who does not shy away from exercising the true responsibilities and leadership his country is capable of, could do a lot to spur the international community into action. To paraphrase one of his illustrious predecessors, “the world asks for action and action now.” What was true in President Roosevelt’s America 77 years ago is even more appropriate today. From IUCN’s perspective, the first signals are encouraging. The US has seriously begun to discuss constructive engagement in climate change debates. With Copenhagen a mere 11 months away, this commitment is long overdue and certainly very welcome. Many governments still worry that if they set tough standards to control carbon emissions, their industry and agriculture will become uncompetitive, a fear that leads to a foot-dragging “you go first” attitude that is blocking progress. A positive intervention by the United States could provide the vital catalyst that moves the basis of the present negotiations beyond the narrowly defined national interests that lie at the heart of the current impasse. The logjam in international negotiations on climate change should not be difficult to break if the US were to lead the industrialized countries to agree that much of their wealth has been acquired at the expense of the environment (in this case greenhouse gases emitted over the past two hundred years) and that with the some of the benefits that this wealth has brought, comes the obligation to deal with the problems that have resulted as side-effects. With equitable entitlement to the common resources of the planet, an agreement that is fair and acceptable to all nations should be easy enough to achieve. Caps on emissions and sharing of energy efficient technologies are simply in the interest of everyone, rich or poor. And both rich and poor must now be ready to adopt less destructive technologies – based on renewables, efficiency and sustainability – both as a goal with intrinsic merit and also as an example to others. But climate is not the only critical global environmental issue that this new administration will have to deal with. Conservation of biodiversity, a crucial prerequisite for the wellbeing of all humanity, no less America, needs as much attention, and just as urgently. The United States’ self-interest in conserving living natural resources strongly converges with the global common good in every sphere: in the oceans, by arresting the precipitate decline of fish stocks and the alarming rise of acidification; on land, by regenerating the health of our soils, forests and rivers; and in the atmosphere by reducing the massive emission of pollutants from our wasteful industries, construction, agriculture and transport systems.

### Solvency

**Deregulating TERAs allows corporate exploitation of indigenous peoples—worse for sovereignty**

Reese, 2003, “Plains tribe harnesses the wind,” [reporter – High Country News (Colorado) and Energy & Environment, April], p. <http://www.hcn.org/issues/255/14139>

The legislation would also waive Interior’s trust responsibility to the tribes in energy dealings. This trust relationship means the federal government must ensure that tribes get a fair shake when their land is leased for mining, grazing, logging or drilling. In recent years, Indians have sued the Interior Department, accusing the agency of mismanaging billions of dollars it collected from those leases (HCN, 5/12/03: Missing Indian money: Piles or pennies?). But some tribal leaders and environmental groups say there aren’t enough financial and human resources in Indian Country to ensure that tribal energy resources are developed in an environmentally responsible way. They fear that the legislation, dubbed the “Native American Energy Development and Self-Determination Act” before being rolled into a larger, catchall Senate energy bill, would leave tribes vulnerable to exploitation by energy companies. Historically, when tribes have tried to assert their authority over corporations, “they’re challenged at every turn,” says David Getches, a professor of natural resource law at the University of Colorado and one of the founders of the Native American Rights Fund. “When you’re talking about things like power plants, where there are millions of dollars involved, you will see some of the most vigorous challenges ever to tribal sovereignty.” “I think a better name for this legislation would be the ‘Native American Self-Termination Act’,” says Robert Shimek, special projects director for the Indigenous Environmental Network and a member of the Chippewa Tribe. “The way it’s proposed, it reopens the door for dirty projects — projects that nobody else wants.” Shimek is wary of a return to the days when the federal government endorsed projects like the Black Mesa coal mine on the Navajo reservation in northeastern Arizona. In the 1960s, the Peabody Coal Company strip-mined 17,000 acres of tribal lands, and the still-active operation has been blamed for depleting the aquifer and drying up the Hopi Tribe’s sacred springs. “(Tribal lands) were essentially energy colonies for the rest of the country,” says Lester. When the Senate resumes debate on the energy bill this summer, Campbell is expected to offer an amendment addressing some of critics’ concerns, including retaining Interior’s trust responsibility and laying out requirements that tribes would have to follow when conducting environmental reviews.

**Corporate exploitation of renewable energy is inevitable---turns the affirmative, recreating neo-colonial structures**

Mills 11 (Andrew D, Energy and Resources Group at UC Berkeley, Wind Energy in Indian Country: Turning to Wind for the Seventh Generation,")

Broadly, the idea of dependency is summarized in the common phrase “the development of underdevelopment.” Dependency is a critique of the idea of the economic base in that underdeveloped regions become specialists in providing raw materials and resources that are used in developed regions to create manufactured goods. Substantial value is added to products in the latter stages of processing, but very little of that value is transferred to the developing region. Furthermore, **when large multi-national companies control the extraction of the resources the developing region often forgoes the opportunity to build capacity in the production of the base resource**. Instead, the local economy simply provides access to the resource and unskilled or semiskilled laborers (See Palma 1989 and Kay 1991). Beyond the lack of opportunity to capture value, the dependency critique argues that the success of developing a base resource can distort the structure of the regional economy. Instead of entrepreneurs developing a strong, diversified economy, the businesses that do emerge in the regional economy are oriented toward providing services to the large industrial companies that extract resources (Gunton 2003, 69). The services provided by the government can become focused on increasing the development of just one sector and income to the government becomes tied to the production of the resource. The economy of the entire region and the services provided by the government become linked to the price of the export resource. Moreover, if the resource is depleteable, the economy contracts as the resource becomes more and more difficult to extract in comparison to alternative resources. One measure of the degree of specialization in the production of energy resources is called the “oil dependency” metric. The “oil dependency” of the Navajo Nation is the ratio of the value of the energy exports (oil, coal, and gas) to the gross regional product of the Navajo Nation (Ross 2001). A rough approximation of the “oil dependency” for the Navajo Nation was found to be 1.1 using data available in the Comprehensive Economic Development Strategy of the Navajo Nation (Choudhary 2003) and energy prices from the Energy Information Agency. The most oil dependent national economy in the world is Angola (68.5). Norway, which exports a considerable amount of oil has an oil dependency of 13.5. The 25th of the top 25 most oil dependent nations has an oil dependency of 3.5 (Ross 2001). Although the Navajo Nation would not be considered as “oil dependent” as these other countries, it is also important to realize that 15- 20% of the Navajo Nation annual funds are from royalties on energy resources. If the grants from external sources like the federal government are not included in the sources of annual funds, then the share of energy resources increases to 25-50% of the Navajo Nation budget (Choudhary 2003, 65 - Table 7). Furthermore, the second largest recipient of revenues from the Navajo General Fund is the Division of Natural Resources (ibid, 64 – Table 6C). Overall these statistics indicate that **the Navajo Nation is oriented toward a heavy reliance and focus on energy development**. Discussions of the Navajo economy in the context of dependency often focus on the importance of the tribe being in control of energy development. By control, most authors are referring to the right to dictate the pace and laws surrounding energy development on their lands (Owens 1979, Ruffing 1980). However, gaining control of energy development is only one part of the dependency critique. The second part is that even with control over the pace and quality of energy development the Navajo government needs to steer the economy in diverse directions so that the economy does not become specialized in providing services to energy extraction companies. One could easily argue that the Navajo Nation is focusing significant efforts on increasing the level of energy development at the expense of supporting alternative development pathways (for example, the speech by Shirley and Trujillo to the World Bank, 2003). Many authors draw from dependency theories to show why the Navajo Nation is locked into an energy development pathway. One of the more important historical reasons for the orientation of the Navajo government toward energy development was that the Navajo government was first formed in 1922 by the federal government to act as a representative of the Navajo interests in signing oil leases on Navajo land. As part of organizing the relationship between the federal government, the Navajo Business Council (as it was first called) and energy developers, the Interior Department set policy such that the Navajo government would own all of the mineral resources on tribal land, rather than individual Navajo owning rights to the mineral resources (Wilkins 2002, 101-3). At the end of World War II, the still fledgling tribal government turned to economic development to improve the conditions in Navajoland in hopes that young people would not feel forced to live elsewhere (Iverson and Roessel 2002, 189). **In a process** LaDuke and Churchill refer to as **“Radioactive Colonialism”, the driver of economic development became, with pressure from energy companies and** the Bureau of Indian Affairs (**BIA), revenues from leasing land for large-scale extraction of the Navajo’s mineral resources by private non-Navajo enterprises**. The Vanadium Corporation of America and Kerr-McGee provided $6.5 million in uranium mining revenues and jobs for Navajo miners. The miners worked under dangerous and unhealthy conditions, but many of the jobs were the only wage employment ever brought to the southeastern part of the reservation. An oil boom in Navajoland between 1958-62 provided tens of millions of dollars in revenues to the tribal government (Iverson and Roessel 2002, 218-20). The Tribal Council used the revenues to provide services to many of the Navajo and increasingly employed Navajo in government related jobs. The government officials and workers, along with the few that obtained jobs in the capital-intensive extractive industries formed a class with similar economic interests. Their wealth and power increased with increasing energy development. LaDuke and Churchill explain: “**With this reduction in self-sufficiency came the transfer of economic power to a neo-colonial structure lodged in the US/tribal council relationship:** ‘development aid’ from the US, an ‘educational system’ geared to training the cruder labor needs of industrialism, and employment contracts with mining and other resource extraction concerns… for now dependent Indian citizens.”(LaDuke and Churchill 1985, 110) The relationship between economic development and energy development was further extended in the 1960’s with the development of large coalmines and power plants on Navajo lands. The federal government played numerous roles in support of connecting energy developers and the tribal government. One example that illustrates the diverse ways in which the federal government encouraged energy development with tribes was a stipulation in the contracts for cooling water for the Mohave Generating Station in Nevada that specified that the owners of Mohave could only use the Colorado River for cooling water as long as the power plant used “Indian Coal”6 (also see Wiley and Gottlieb 1982, 41-53; and Wilkinson 1996, 1999 for more of the history of coal development in the Western Navajo Nation). Recommendations for economic development in initial stages of the self-determination era focused not on how to build a diverse economy, but how to take control of energy development and ensure that the Navajo Nation received the best deal for their resources. In describing the role of policy in energy development on the Navajo Nation one author focuses on the capital-intensive nature of energy development. Whereas one recommendation might be to shift the focus to other development pathways, her recommendation was to take steps to ensure that the jobs that are created by energy development go toward tribal members. She recommended that provisions should be included in contracts for training and preference hire for tribal members with all energy development projects (Ruffing 1980, 56-7). A major transition point in the history of energy development on Navajo lands involved the Chairman of the Navajo Nation, Peter McDonald, declaring that changes needed to take place before the Navajo Nation would support continued development of energy resources on their land in the 1970’s. **Two major points he stressed included making sure that energy development was being carried out for the benefit of the Navajo people and that the tribe should be given opportunities to participate in and control energy development** (Robbins 1979, 116). **The main critique of both these stances from dependency theory is that even with control over energy development, it is still a capital-intensive, highly technical, and tightly controlled industry** (Owens 1979, 4). **The Navajo Nation can participate in energy development, but not without creating distortions in the orientation of the economy and government.** In this same vein, **it is difficult to argue that wind energy is inherently different that other forms of energy development from the dependency perspective.** While it is possible for the Navajo Nation to take steps to ensure that the tribe will obtain the maximum benefit from wind development, such as ensuring that tribal members and Navajo owned businesses have preference in hiring, **it is not likely that the tribe can become a self-sufficient wind developer without severely distorting the priorities of the economy and Navajo government. The alternative is to allow a specialized, large company from off the reservation to develop the wind farm,** with the possibility that a Navajo partner can take part in the ownership of the wind farm. While the Navajo Nation may now have the institutional structure in place to control wind energy development on their land, **wind development is still subject to the dependency critique.**

**The trust doctrine is not colonialism---key to preventing exploitation of indigenous peoples**

Clinton, 1993, 46 Ark. L. Rev. 77, Redressing the Legacy of Conquest:
A Vision Quest for a Decolonized Federal Indian Law, [former Iowa law professor; Robert], p. 133-4

 **Given the** chameleon-like nature of and **complex roles played by the federal trusteeship doctrine** over the course of American legal history, it may not be sufficient only to identify it as a legacy of colonial oppression of Indian tribes and to condemn it to the oblivion of America's colonialist past. Although the doctrine has been destructive to Indian tribes and their cultures, it also **has protected ~~tribal~~ communities by affording redressability for past wrongs**. For example, Chief Justice Marshall used the doctrine in Cherokee Nation in part to insinuate the federal government's obligation by treaty or otherwise to protect the sovereignty and lands of the Cherokee Nation from encroachment by the State of Georgia and its [\*134] citizens. Surely, **this protective role,** for which many tribes diligently negotiated in many of the treaties**, does not represent a legacy of colonialism**. Rather, it is a logical outgrowth of the political relationships created by such treaties and the course of dealings between the federal government and the tribes. Similarly, while colonialism certainly caused the federal government to assume the management of many Indian minerals and resources, **the legal doctrines derived from the trusteeship hold the federal government legally accountable for actual mismanagement of such Indian resources, and** therefore, **they should not be simplisticly condemned and eliminated as a vestige of colonialism.** Thus, dealing with the federal trusteeship in the visionary world of a decolonized federal Indian law poses significant conceptual problems. Certainly, the elements of the doctrine which justify the exercise of plenary federal authority, federal usurpation of the management of or decision making about Indian resources, or federal efforts to "enlighten" Indians by depriving them of their tribal traditions and culture represent a part of the legacy of conquest and properly should be jettisoned by a decolonized federal Indian law as relics of America's colonialist past. By contrast, **a decolonized federal Indian law still might retain those elements of the trusteeship under which the federal government justified its protection of the legal autonomy of communities from the onslaught of the legal authority of the states** that surrounded them or under which it has sought to provide legal redress for harms caused by its past colonialist excesses. Perhaps doctrinal labels less paternalistic than trusteeship, guardianship, wardship, or the like could be found to describe these legal theories, but, nevertheless, **these elements**, which historically have been associated with the federal trusteeship over Indian affairs, **should escape the scalpel of decolonization of federal Indian law.**

**Reducing federal oversight does not solve—lack of federal tax incentives and unfavorable case law governing tribal civil jurisdiction block renewable energy development**

Sullivan 10—J.D. Candidate, University of Arizona James E. Rogers College of Law (Bethany, CHANGING WINDS: RECONFIGURING THE LEGAL FRAMEWORK FOR RENEWABLE-ENERGY DEVELOPMENT IN INDIAN COUNTRY, <http://www.tribesandclimatechange.org/docs/tribes_25.pdf>)

Unfortunately, the IEED's TERA program has produced unsatisfactory results. Not a single tribe, as of present, has successfully attained a TERA. 54 This may partially be a consequence of the multi-step TERA application requirements, including: submission of documentation demonstrating a tribe's financial and personnel capacity to administer energy agreements and programs, establishment of a tribal environmental review process, and consultative meetings with the Director of the Indian Energy and Economic Development Office. 55 Perhaps more problematic are conflicting sentiments within tribes over distancing tribal energy development from federal government protection, an issue strongly debated among Indian law practitioners and scholars. 56 So, although tribes could arguably benefit \*832 from the decreased federal oversight that TERAs would provide, it appears that this mechanism, on its own, is insufficient to truly stimulate renewable development. In summary, the Act has provided for federal programs that encourage the development of tribal renewable resources, yet its policy goals of tribal economic and energy development and tribal self-determination have not yet been met. In part, this may be a function of inadequate appropriations for the Act's provisions. 57 An alternative explanation, however, is that the Act fails to address substantial obstacles to tribal renewable-energy development. The most significant obstacles can be generally divided into two categories: (1) tribal inability to take advantage of federal tax incentives in the renewable-energy industry and (2) unfavorable case law concerning tribal civil jurisdiction.

**Can’t solve self-determination without allowing indigenous peoples exclusive power to tax**

Hall, 2012, Hearing on S. 1684, Indian Tribal Energy and Self-Determination Act Amendments, April 19, [**Chairman, Mandan, Hidatsa and Arikara Nation of the Fort Berthold Reservation; Tex**], p. http://www.indian.senate.gov/hearings/upload/Tex-Hall-testimony041912.pdf

Fourth, as described above, S. 1684 should affirm that tribes have exclusive authority to raise taxes from activities on Indian lands. Because federal courts have allowed other governments to tax energy development on Indian lands, tribes are unable to impose their own taxes or can only impose partial taxes. Without tax revenues, tribal infrastructure, law enforcement, and social services cannot keep up with the burdens imposed by increased energy development. This authority is essential for tribal governments to exercise self-determination.

**No solvency unless funding is provided**

Cuch, 2012, Hearing on S. 1684, Indian Tribal Energy and Self-Determination Act Amendments, April 19, [**Chairwoman, Ute Tribal Business Committee; Irene**], p. http://www.indian.senate.gov/hearings/upload/Irene-Cuch-Testimony041912.pdf

The Tribe also strongly supports changes proposed in Section 103 that would require the Secretary to make funds available to tribes operating an approved TERA pursuant to annual funding agreements—similar to ISDEAA contracts. If the tribes are going to take over these responsibilities for the federal government, then the federal government must provide adequate funding to tribes. Although it is unclear how much funding would be available from the Secretary for , any new opportunity for funding energy activities is a significant change.

**No solvency—Lack of federal loan guarantees inhibits energy projects**

Cuch, 2012, Hearing on S. 1684, Indian Tribal Energy and Self-Determination Act Amendments, April 19, [Chairwoman, Ute Tribal Business Committee; Irene], p. http://www.indian.senate.gov/hearings/upload/Irene-Cuch-Testimony041912.pdf

17) Indian Tribal Energy Loan Guarantee Program. Problem: Despite the success of federal loan guarantee programs, DOE has not implemented the Indian Energy Loan Guarantee Program from the Energy Policy Act of 2005. This significant loan guarantee program is needed to help tribes finance energy projects. Proposed Solution: Require DOE to implement the program in the same way that the Energy Policy Act required a national non-Indian loan guarantee program (the Title XVII program) to be implemented. The Title XVII program required DOE to develop regulations establishing the program and providing for its implementation. Once the program was established, then appropriations were provided by Congress to fund the program.

**No solvency—lack of federal tax credits inhibits renewable energy**

Cuch, 2012, Hearing on S. 1684, Indian Tribal Energy and Self-Determination Act Amendments, April 19, [Chairwoman, Ute Tribal Business Committee; Irene], p. http://www.indian.senate.gov/hearings/upload/Irene-Cuch-Testimony041912.pdf

23)Renewable Energy Production Tax Credit Transferability Problem: The economic viability of renewable energy projects often depends on the ability to utilize federal tax credits. Because tribes are not able to take advantage of these tax credits, tribal projects are effectively priced out of the market. Proposed Solution: Indian tribes need to be able to use all of the tools that are available to others to lower the cost of developing energy projects. Authorize Indian tribes to assign their share of the production tax credit for electricity generated from renewable energy to a private sector partner in the project. Tribes could then receive an equity interest in the project or other benefits from their partner for their share of the renewable energy produced.

**No solvency—lack of DOE support for energy projects**

Cuch, 2012, Hearing on S. 1684, Indian Tribal Energy and Self-Determination Act Amendments, April 19, [Chairwoman, Ute Tribal Business Committee; Irene], p. http://www.indian.senate.gov/hearings/upload/Irene-Cuch-Testimony041912.pdf

The Tribe also asks that Committee not overlook the important role DOE could be playing in the management of Indian energy resources. In general, DOE ignores Indian tribes in its programs and in setting national energy policies. The relatively new Office of Indian Energy Policies and Programs is making progress, but tribes are left out of the vast majority of DOE programs. The Committee could hold an entire hearing on the lost opportunities. Tribes need full access to existing DOE programs for energy loan guarantees, energy efficiency, weatherization assistance, and renewable energy research and development.

**Self-determination doesn’t build accountability—they take cash instead**

Wood 95

Mary Christina Wood, Oregon Law Professor, 1995, Utah L. Rev. 109, Lexis

Some have persuasively argued that many modern Indian development schemes are designed to enrich non-Indian market interests at the expense of native economic sustainability. The allegation is made forcefully by Ward Churchill and Winona LaDuke in an article describing the domestic "colonialism" still waged against tribes under the guise of promoting tribal economic development and sovereignty. n183 The authors analyze the historic transition of [\*155] some native economies to industrial economies, focusing in large part on the role of anglo-style tribal governments formed under the Indian Reorganization Act of 1934 ("IRA"). n184 Closely accountable to the BIA in their early years, the tribal councils often acceded readily to the development requests of the government, n185 and as the authors describe, operated as "classic vehicle[s] of neocolonialism." n186 The authors suggest that on many reservations federal policies extinguished subsistence-based, self-sufficient native economies, n187 and established in their place a new socioeconomic structure primed for industrial exploitation: a dependent Indian population desperate enough to meet the "cruder labor needs of industrialism," combined with tribal governments willing to negotiate the reservations' future through leasing contracts. n188 With these components, the industrial model gained a firm foothold in the Southwest, enabling mineral companies to reap vast quantities of reservation resources. n189 As the authors note, the industrial experience devastated many [\*156] tribes. n190 A repeating pattern of toxic contamination across many of the Southwest reservations n191 left large-scale environmental damage that, for all practical purposes, often precluded any return to a subsistence, land-based economy. n192 The work force, trained for no other type of employment, was often left adrift. The health effects on Indian workers resulting from daily encounters with toxic elements were substantial and often lethal, resulting in an exploding demand for health and social services on the reservation. n193 Rarely were private interests held accountable for their environmental and economic damage. n194 The entire scenario--depletion of raw natural resources, use of reservation populations for dangerous, unskilled work, and the unchecked proliferation of toxins into the surrounding ecosystem--does indeed suggest exploitation on a grand scale and calls into question whether the industrial paradigm is beneficial to tribes over the long term. n195 For many, however, even posing the question may be inappropriate. In the era of Self-Determination, no development occurs without tribal council approval, and there is a prevailing assumption that tribal councils approve only those projects that benefit the tribal economy without risking other important values. Secondguessing [\*157] tribal council decisions, even in a broad policy context, may affront contemporary notions of tribal sovereignty. Although the concern is valid, nevertheless, the constraints faced by tribal councils in making economic decisions warrant inquiry, particularly in the context of trust analysis. The notion of tribal self-determination rests on a basic presumption that decisions are freely made throughout the full arena of tribal decision-making. At least in the economic realm this assumption ignores the constraints facing tribes in the modern economy. Many tribes lack the basic economic freedom which is the presumed hallmark of the United States' capitalist system of free enterprise. Impoverished and sometimes desperate for any source of income, some tribal councils will accept unfavorable--and in some cases repugnant--corporate offers of development, regardless of the consequences to their society. n196 Many tribes entertain offers of strip mining, uranium production, and waste disposal despite the severe health, safety, environmental, social, and economic effects, simply because there is no other perceived alternative. n197 Lack of economic freedom is a familiar mark of exploitation, n198 yet it persists [\*158] in Indian Country behind a cheerful veil of tribal self-determination. n199 Because of severe economic dependency, tribes may find their options unreasonably, if not coercively, dictated by the preferences of economically dominant non-Indian parties. n200 The confluence of these social and economic forces creates an imposing predicament for Native America as a whole--and one which forms an important backdrop against which to analyze the federal trust responsibility. As Churchill and LaDuke note: "The results of [tribal councils' decisions] will undoubtedly shape the futures of American Indian peoples irrevocably." n201 In view of the enormous stakes, redefining the federal trust obligation to support reservation economies is critical. The executive branch exerts a heavy influence over tribal economic development on all reservations through both its land management functions and its role in managing shared resources, such as water and wildlife, which still form the basis of many subsistence economies today. The next section explores the basis in Indian law for employing the trust doctrine to protect Indian economic autonomy as a legitimate beneficiary interest. The subsequent section then suggests factors courts should use in applying the trust doctrine to promote, rather than stifle, tribal economies in light of the troubling context described above.

### Advantage

**Status quo solves---tons of federal policies and resources are used to spur Indigenous renewable energy development now**

LeBeau, 12

(Senate Indian Affairs Committee Hearing, "Energy Development in Indian Country." 2/16, Director of the Office of Indian Energy Policy and Programs at DOE, Lexis)

To accomplish these goals, **Title V of the Energy Policy Act** of 2005 ("EPAct") **conferred** my Office **the authority to provide grants, including formula grants or grants on a competitive basis to eligible tribal entities. Grants may be used for establishing programs to assist consenting Indian Tribes in meeting energy education, research and development, planning, and management needs, including: \* Energy generation, energy efficiency, and energy conservation programs;** \* Studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in promoting electrification of homes and businesses on Indian land; \* Planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; \* Development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities; \* **Developing a program to support and implement research projects that provide Indian Tribes with opportunities to participate in carbon sequestration practices on Indian land; and \* Encouraging cooperative arrangements between Indian Tribes and utilities that provide service to Tribes.** Since joining DOE a little more than a year ago, I have been committed to accomplishing four strategic programmatic and administrative goals: 1. Fully implement Congressional stated goals for energy development in Indian Country, as found in Title V of the Energy Policy Act of 2005; 2. Reach out to Indian Country to understand what the high priority needs are for energy development and how this Office can help address those needs, and based on feedback from Indian Country, develop policies and programs to fill gaps in current Department programs; 3. Work within the Department to leverage the many resources--financial and technical--to promote Indian energy development throughout the Department and to institutionalize Indian energy development; and 4. Coordinate resources across agencies to promote Indian energy development. In that same time period, **the DOE Office of Indian Energy has: \* Conducted a major outreach initiative to Indian Country through eight roundtable discussions with tribal leaders around the country to discuss current needs and priorities related to Indian energy policy and programs; \* Established the Indian Country Energy and Infrastructure Working Group, an informal group of tribal leaders that provides input and recommendations to the DOE Office of Indian Energy on issues related to energy development and opportunities in Indian Country; \* Developed programs that provide tribal leader energy education, strategic and targeted technical assistance for Tribes on renewable energy project deployment, information on transmission and electrification, innovative project development, and best practices forums for tribal leaders; and \* Supported interagency coordination efforts to promote energy development in Indian Country.** More details about these efforts, as well as future plans are provided below. My testimony today will touch on some of our efforts to fulfill congressional and Administration goals. My written testimony goes into considerably more detail regarding these activities. Pursuing Sustainable Energy Development in Indian Country The Administration is committed to safely, responsibly harnessing America's domestic energy resources to power our economy--from oil and gas to clean coal to nuclear energy to renewable energy and energy efficiency. Our Office's charge is also broad in terms of the scope of energy development we are directed to facilitate in Indian Country - including renewable energy sources such as wind and solar and traditional energy sources such as coal and natural gas, as well as improving the infrastructure needed to deliver this energy. However, **Tribes have shown a high motivation to pursue expanded clean energy development. It is our strong belief that the new DOE Office of Indian Energy initiatives that are taking root in Indian Country are a direct reflection of the innovation and the promise of the next generation of tribal energy development. Our priority is in designing and implementing new programs in close collaboration with tribal leaders and tribal experts that will accelerate energy development in Indian Country. By providing reliable and accurate information, quality training, and technical assistance, we seek to further empower tribal leaders to make informed energy decisions that promote community economic development and job creation, foster energy self-sufficiency and self-determination, and advance tribal clean energy visions.** Shortly after being appointed, I asked the National Renewable Energy Lab to update all the renewable resource estimates in Indian Country. Based on 2011 data provided by DOE's National Renewable Energy Laboratory using updated analysis and modeling tools, the estimated maximum renewable energy resource potential on Indian lands is millions of megawatts (MW) of nameplate capacity. Solar and wind are the primary energy resources that contribute to this potential. These estimates do not, however, take into account cost, transmission access, or other critical constraints on renewable energy deployment, and they assume that all land that is not protected, impervious to (or too small for) system installation, or clearly ill-suited for the technology is used for generation. Most of these resources will not be economical to access and there are competing land-use constraints. Although it would not be realistic to blanket Indian Country with solar panels or wind turbines, these numbers certainly illustrate the vast amount of resources potentially available. These resources are generally regional and geographic in nature: solar in the southwest, wind in the plains, biomass in the northwest and east, and geothermal in the West. When combined, it's clear that further development of these energy resources in Indian Country provide an incredible opportunity to not only increase tribal energy reliability and self-sufficiency, but also provide an opportunity for Tribes to contribute to the nation's energy security goals. Energy Economies in Indian Country that are Built to Last There are many critical factors to building sustainable economies around energy. Key among those factors are policy support, strong collaborative partnerships and understanding of issues affecting the hoped for outcomes, and of course designing appropriate responses to meeting the challenges identified. Policy Support President **Obama and Secretary Chu have been extremely supportive of improving the economy of Tribal communities through enhanced energy development.** At the 2011 White House Tribal Nations Conference, the President stated: "While our work together is far from over, today we can see what change looks like. It's the Native American-owned small business that's opening its doors, or a worker helping a school renovate. It's new roads and houses. It's wind turbines going up on tribal lands, and crime going down in tribal communities. That's what change looks like." At DOE's Tribal Summit, held May 2011, the Secretary reaffirmed his commitment to Indian energy development. The summit provided a historic opportunity for the Department and tribal leaders to discuss a broad range of critical energy and environmental issues in Indian Country. Secretary Chu said, "By working together, we can promote economic development and help many more tribes and villages seize the clean energy opportunity." In support of this commitment, Secretary **Chu announced three key initiatives to support DOE's goals of promoting Indian energy: 1) the creation of the previously mentioned Indian Country Energy and Infrastructure Working Group (ICEIWG); and 2) intent to issue policy guidance to the Department to implement the Title V provision on giving preference to tribal majority-owned businesses for DOE acquisition of electricity, energy products, and by-products. DOE also supports a number of programs that provide technical assistance to Indian tribes, including the Strategic Technical Assistance Response Team** (START) **initiative to help advance clean energy development in tribal communities**, as described later in this testimony. The Indian Country Energy and Infrastructure Working Group was established in August 2011. The working group provides advice and recommendations to the Director of the DOE Office of Indian Energy Policy and Programs and to the Secretary of Energy on the strategic planning and implementation of the Department's energy resource, energy technology, and energy infrastructure development programs. To provide the most relevant and up-to-date perspectives, the ICEIWG is comprised of five (5) elected tribal leaders from Tribes that are actively developing or have established energy projects, or can demonstrate business interest in energy development. This composition of tribal leaders enables ICEIWG to provide technical and experienced analysis and feedback to the Office of Indian Energy and DOE on complex energy development issues. **We also have been working** since May 2011 with several DOE offices, including the Office of Procurement, Federal Energy Management Program, Office of Policy, Office of Economic Impact and Diversity, Western Area Power Administration (WAPA), and the Bonneville Power Administration (BPA) **to implement Secretary Chu's directive to develop policy guidance to implement the Indian energy procurement preference provision. S**ection 503 in Title V of the **Energy Policy Act** of 2005 (codified at 25 U.S.C. 3502(d)) **grants DOE new authority to give preference to tribal majority-owned business organizations when purchasing electricity, energy products, and energy by-products. This procurement preference is intended to promote energy development in Indian Country by providing federal agencies the discretion to give tribal majority-owned business organizations preferred access to the federal government marketplace for electricity, energy, and energy by-products.** Promoting tribal renewable energy development further enables economic development in Indian Country, and also helps meet the Administration goals on the acquisition and use of clean energy. Strong Partnerships and Common Challenges I began my appointment by meeting with tribal leaders in their communities to hear first-hand about the obstacles, issues, and opportunities for energy development in Indian Country. During the eight roundtable discussions with tribal leaders that I mentioned earlier, we learned about these as well as the needs, priorities, and possible solutions related to: conventional and renewable energy development; transmission and infrastructure; public-private partnerships; energy efficiency and management; education and workforce development; funding and tax incentives; and leveraging, coordinating, and optimizing federal resources and programs. **The feedback from tribal leaders and organizations fed into Secretary Chu's Tribal Summit in May 2011 and the program initiatives developed by the Office of Indian Energy to fulfill its statutory mandates and the Administration's energy policy priorities. We also have taken time to evaluate the thrust of many of our programs to date, including the grants offered through the Office of Energy Efficiency and Renewable Energy's Tribal Energy Program**. Below are important lessons learned we would like to highlight:

**Conditions for Indigenous persons improving—Obama has committed significant funding for the economy and health care**

Vitale, 10/24

(Freelance Columnist focusing on Native American Issues, “Obama has worked for Native Americans,” http://theonefeather.com/2012/10/obama-has-worked-for-native-americans/)

**Native Americans have had few friends in the White House, but in recent history Native Americans have had no better advocate than** President **Obama.** “One Who Helps People Throughout the Land”, his adopted Crow name, is symbolic of how seriously **he is committed to taking action on Indian issues. He included $3 Billion in stimulus money directly targeted for Indian Country. It included money for job creation, renovation of schools, improved health services, police, and improved housing. The Affordable Care Act** signed into law in March of 2010, permanently authorized the Indian Health Care Improvement Act. This comprehensive health care service **will directly help 1.9 million Native peoples to receive better health care. The Obama administration has provided $300 million dollars for Tribal controlled Colleges and Universities, and has promoted Native Language restoration**. An Annual White House Tribal Nations Conference has been held every year since President Obama took office, and he has appointed a Native American as Senior Policy Advisor for Native American Affairs.

**Neither do they—they are an INSTANCE of self-D, they don’t create complete self-determination**

Bradford, 2005, Beyond Reparations: An American Indian Theory of Justice, OHIO STATE LAW JOURNAL, VOLUME 66, NUMBER 1, 2005, [Chiricahua Apache and Associate Professor of Law, Indiana University School of Law; William], Lexis Law Reviews

Although Indian tribes are separate sovereigns in retention of all rights and powers not explicitly ceded to the U.S. by treaty, n196 or abrogated by explicit legislative intent, n197 U.S. Indian policy has been generally hostile to the right of Indian tribes to self-govern as politically distinct communities. n198 If the theme of the nineteenth century was eradication of Indians and the seizure of their land, the motif of the twentieth century was the destruction by law of tribal sovereignty. With the passage of the IRA, Indian tribes, traditionally hyperdemocratic and consensus-driven institutions, n199 were reconstituted and subjected to the veto power of the Secretary of the Interior; n200 subsequent legislative and judicial action [\*39] has stripped Indian tribes of control over their form, property, and powers. n201 Relations with post-IRA Indian tribes, rather than proceed as if between mutual sovereigns, are conducted largely through a welter of executive agencies. n202 As a result, the terms and conditions of Indian existence are frequently dictated by Washington, rather than debated on the reservations. n203 Federal agencies to which Congress delegates power smother tribes under a blanket of regulation n204 that, although it provides the means of subsistence, suppresses traditional modes of social control and value allocation, and the Secretary of the Interior looms large over every aspect of tribal life. n205 A dawning recognition that Indians are entitled to self-govern has spurred calls to end the fundamental asymmetry of U.S.-Indian relations. Nevertheless, decades after introduction of the federal policy of "Indian Self- Determination," n206 tribes remain politically subordinate to, and thus economically dependent upon, the U.S. n207[\*40]¶ \*\*\*Footnote 207 Begins\*\*\*¶ 207 Empirical evidence suggests that, for Indian tribes, political domination produces economic dependence. See ANDERSON, supra note 198, at 245 ("Economy follows sovereignty in Indian Country . . . The most striking characteristic of . . . successful tribes . . . is that they have aggressively made the tribe itself the effective decision maker . . . ."). Nonetheless, economics and politics exert reciprocal influence, and economic dependence precludes the free exercise of Indian sovereignty. See John C. Mohawk, Indian Economic Development: An Evolving Concept of Sovereignty, 39 BUFF. L. REV. 495, 499 (1991) ("Indian economic development may be less about creating wealth than it is about creating the conditions for political power . . . .").¶ \*\*\*Footnote 207 Ends\*\*\*¶ c. Ethnodevelopmental Suppression¶ Despite significant resource endowments, n208 many Indian tribes n209 remain ensnared in a web of economic dependence, n210 institutionalized domination, n211 [\*41] geographic dislocation, and gross undercapitalization.. n212 Although the non-legal obstacles to Indian economic independence, the first and foremost goal of tribal governments, n213 are very real, the constraints imposed by federal Indian law are even more formidable. To wit, the U.S. holds trust title to Indian lands and resources, n214 and Indians cannot sell, lease, or borrow against their property without the express approval of the Secretary of the Interior. n215 As the very question of secretarial approval introduces political uncertainty, n216 trust-based [\*42] land-tenure constraints diminish the relative output-values of land-intensive enterprises such as agriculture, ranching, and resource development. n217 Moreover, U.S. management of Indian resources grants the U.S. paternalistic control over Indian economic destiny. n218 Although the U.S. is under a moral obligation to husband Indian resources, diligently advance Indian land claims against the States, secure adequate funding for Indian social services, n219 and enhance the economic well-being of Indian people, n220 federal agencies have withheld basic subsistence, n221 mismanaged tribal resources, n222 and violated the animating [\*43] principles of the trust with near-impunity. ¶ \*\*\*Footnote 222 Begins\*\*\*¶ n222 The paternalistic policies of a non-Indian majority, violative of the moral and legal imperatives arising under the trust doctrine, add the insult of impoverishment to the injury of expropriation: the BIA arranges Indian leases, and collects their royalties and usufructuary benefits for their "protection." See Atkinson, supra note 44, at 404-05, 408. Moreover, because all tribal land is held in trust, leases of more than one year are prohibited without permission of the Secretary of the Interior, and funds generated from such leases cannot be used to purchase land. U.S. mismanagement of Indian resources is of epic proportions. See, e.g., S. Rep. No. 101-216, at 105-29, 140 (1989) (documenting a century of theft of Indian oil and gas). In the most recent case, a federal court, finding the U.S. in breach of a common law fiduciary obligation due to its "long and sorry history" of gross mismanagement of over $ 500 million in 300,000 individual Indian Money Accounts, retained jurisdiction to enforce an accounting but stopped short of ordering further remedies unauthorized by statute. Cobell, 91 F. Supp. 2d at 7. Although the Secretary of the Interior concedes the issue of gross federal mismanagement, the means proposed as the most cost-effective to make an accounting-statistical sampling-would cost Indian claimants at least $ 70 million: whether relief will ever be afforded is uncertain, although the court maintains jurisdiction and defendants are currently required to file reports as to trust reform activities. Id.; see also Assiniboine and Sioux Tribe of the Fort Peck Indian Reservation v. Norton, 211 F. Supp. 2d 157, 158, 160 (D.D.C. 2002) (finding that the case at bar presented the same questions of law and fact as Cobell, and refusing to refer the case at bar, and other related tribal cases, to the Calendar Committee). ¶ \*\*\*Footnote 222 Ends\*\*\*¶ Only in very recent years has the trust doctrine charged the U.S. with judicially enforceable obligations apart from those incorporated in specific treaties, statutes, or executive orders. Although the protective dimensions of the trust doctrine have broadened, aggrieved Indian beneficiaries still lack effective legal recourse for its breach.

**The logic of their solvency deficits is wrong—they don’t remove multiple obstacles to siting**

Royster, 2008, 12 Lewis & Clark L. Rev. 1065, [Co-Director – Native American Law Center @ University of Tulsa; Judith], p. 1082-3

The first concern is the limitation on the resources to which ITEDSA applies. Enacted as an energy development measure as well as a tribal self-determination measure, n106 ITEDSA does not apply to all tribal mineral resources. The statute itself contains no definition of energy [\*1083] resources, but the regulations define them as "both renewable and nonrenewable energy sources, including, but not limited to, natural gas, oil, uranium, coal, nuclear, wind, solar, geothermal, biomass, and hydrologic resources." n107 Tribes' ability to exercise greater practical sovereignty over their mineral resources thus does not extend to such minerals as clay or sand and gravel. This artificial division of tribal mineral resources into energy and non-energy resources means that instruments for the development of non-energy minerals must still go through a secretarial review process even for tribes that enter into TERAs. Consigning sand and gravel development to a more onerous process than, say, uranium or coal development makes little sense. Amending ITEDSA to apply to the full range of mineral resources covered by the Indian Mineral Development Act n108 would not only harmonize the two statutes, but ensure that tribes could address all their mineral resources in the same manner.

**Aff doesn’t solve self-determination**

Porter,1998, **31 U. Mich. J.L. Reform 899, [Director – Tribal Law and Government Center @ U Kansas; Robert], p.**

Nevertheless, no matter how much responsibility we assume **for the redevelopment of our** **sovereignty**, **the** United States **remains a barrier to** our forward **progress**. **America**, **because of its geography**, its **people**, its **culture**, **and** its **media**, **is an overwhelming influence** on the Indigenous nations located within its borders. n9 As a result, **tremendous forces inhibit** the preservation and **strengthening** of the unique fabric of **our nations and** thus **form considerable obstacles to our redevelopment**. n10¶ One of the most **significant barriers** to our redevelopment **lie**s **in** the body of **American law**. Since its founding, the United States has developed an extensive body of law - so-called [\*902] "federal Indian law" - to define and regulate its relationship with the Indian nations remaining within its borders. n11 While this law may seem to have a neutral purpose, it would be more accurate to say that "**federal Indian law**" **is** really "federal Indian control law" because it has the twofold mission of establishing **the legal base**s **for** American **colonization of the continent** n12 **and perpetuating** American power and **control over the Indian nations**. n13 Unfortunately, in addition to this foundational problem, **the law itself is not simple or uniform**. Federal **Indian control** law **is a hodgepodge of statutes**, **cases**, **executive orders**, **and** administrative **regulations that embody a wide variety of divergent policies towards the Indian nations** since the time the United States was established. n14 Because old laws reflecting **these old policies have rarely been repealed** when new ones reflecting new policies have been adopted, n15 **any efforts** that might be taken by the Indian nations and the federal government **to strengthen Indian self-determination must first cut through the legal muck created by over 200 years of** prior federal **efforts to accomplish precisely the opposite** result.¶ As I see it, this legal minefield profoundly effects tribal sovereignty. For example, **conflicting federal laws** - such as those that provide for the federal government's protective trust responsibility over Indian affairs n16 and those that allow federal, [\*903] state, and private interests to interfere with tribal self-government n17 - make it impossible **for the Indian nations to exercise** fully their sovereign right of **self-determination**. As past efforts to destroy our sovereign existence continue to have their corrosive effect, so too, in my view, does the natural result of those efforts: the destruction of Indigenous culture and the eventual assimilation of Indian people into American society. n18 Inevitably, **in the absence of any affirmative efforts to decolonize** both the Indian nations and federal Indian control law, I believe that **our distinct native identity will continue to erode**, **and with it**, **the existence of our nations**.

1. Solar industry expansion will lead to massive export of waste to developing countries

Craig, 2012, Recycling Solar Panels A Big Money Maker?, January 12, [M.S. in International Development from Tulane University, and is co-founder of Sustainable Systems Integrators; Lauren], p. <http://www.earthtechling.com/2012/01/recycling-solar-panels-a-big-money-maker/>

As the industry continues to grow over the coming decades, and today’s solar modules approach the end of their useful lives, we will find ourselves with a serious solar trash problem. A new report from Global Data delves into a hidden side of the solar industry that will emerge as a result of this problem over the next 15 years–solar module recycling. According to the firm’s report, end-of-life PV modules are expected to generate approximately 24,855 tons of waste in 2025. By 2035, the amount is expected to increase to 1,161,173 tons. As one might expect, there are significant financial opportunities in this sector. In 2025, a PV module is expected to generate $0.58 per watt in recycled value, increasing to $1.21 per watt in 2035. The major factors driving this trend are the rise in solar panel installations from 2000 to 2010, an expected increase in recycling rates, and a rise in the market price of solar module materials, like glass and aluminum. Overall, the total value of recycled crystalline modules is expected to increase from $122 million in 2025 to $12.9 billion by 2035.The emergence of solar module recycling is just part of a growing market for electronic waste, or e-waste. A recent study by Pike Research found that the amount of total e-waste generated worldwide is expected to double to 1,465 million cubic feet by 2025. Today, the vast majority of e-waste that doesn’t go to the landfill ends up in developing countries, where it is processed with little consideration for human or environmental health.

**Poor developing countries and Native American lands will be targeted—contaminating their environment**

Hull, 2010, DUKE ENVIRONMENTAL LAW & POLICY FORUM, vol. 21, [Visiting Assistant Professor, Barry University School of Law; Eric], p. 35

The exportation of electronic waste to developing countries represents an extension of the forms of environmental injustice that have plagued communities in the United States for decades. As Robert Bullard has noted: The transboundary shipment of hazardous wastes, toxic products, and risky technologies to poor communities in the developed countries of the North and developing countries of the South, the systematic destruction of indigenous peoples'. land and sacred sites, the poisoning of Native Americans on reservations, Africans in the oil-rich Niger Delta, African-Americans in Louisiana's Lower Mississippi River petrochemical corridor known as "Cancer Alley," and Mexicans in the border towns along the United States border all have their roots in economic exploitation, racial oppression, devaluation of human life and the natural environment, and corporate greed. At first glance, the international trade in electronic waste appears to benefit all parties-developed countries address a significant hazardous waste problem in an economically efficient manner while developing countries obtain reusable equipment to bridge the digital divide, salvageable precious metals, and cash that helps boost their economies. However, beneath the veneer of prosperity lies a practice that devalues human life and leaves a legacy of environmental contamination from which vulnerable communities may never recover. Although developed countries are impacted by hazardous chemicals, the potential for harm is particularly acute in developing countries that lack sufficient controls and procedures to eliminate or mitigate the impacts of exposure. In developing countries, toxic chemicals released into the environment contaminate the soil and groundwater. The impact can be catastrophic, particularly for subsistence farmers and agrarian economies.

**Turn - a) Landfill disposal of solar waste will leach Cadmium—contaminating water and food supplies**

Coyle, 2011, Golden Gate University Environmental Law Journal, THE NOT-SO-GREEN RENEWABLE ENERGY, vol. 4, [Genevieve], p. 338

However, if PV products are disposed of on or in land, they can break and release toxic chemicals into soil and groundwater, potentially contaminating water supplies. For example, heavy metals, such as cadmium in CdTe cells and lead in crystalline silicone panels, can filter out of the waste. Studies have demonstrated that when thin film cells containing CdTe are exposed to water, the CdTe dissolves, increasing the risk of leaching cadmium. Tests have also shown lead to leach from crystalline silicone panels. Once in soil and water, cadmium and lead can mobilize and spread beyond the dumping area. The contaminants can then accumulate in plants and animals, the food supply. Preventative measures taken at modern landfills, such as bottom/side sealing and containment of leachate, help to reduce this hazard. But these measures can fail and with high loadings of materials in landfills, the threat of leachate migration should be taken seriously.

**b) Low level exposure of Cadmium causes genetic mutations and endocrine disruption**

Environment News Service, 2003, June 9, p. http://ens-newswire.com/wp-content/uploads/2010/05/2003-06-09-10.html

Cadmium, a naturally occurring metal found in food, water and cigarette smoke, disrupts a DNA repair system that is important in preventing cancer, according to researchers at the National Institute of Environmental Health Sciences (NIEHS). The metal, primarily used to make batteries, is a known human carcinogen and has long been known to cause human lung cancer in cadmium-related industries unless strict safeguards are taken. But unlike most carcinogens that work by attacking DNA directly, the NIEHS study released today indicates that cadmium causes mutations in another way, explains the study's senior author Dr. Dmitry Gordenin. The NIEHS research team showed that cadmium causes mutations by inhibiting the ability of cells to repair routine errors made when the DNA is copied to make new cells. "Unless cadmium is unique in its mechanism, it would seem that environmental factors may cause genetic defects and cancer not only by attacking our DNA directly but also by undermining the mechanisms by which faulty DNA replication is repaired," Gordenin said. Without these corrective mechanisms, mutations would occur and multiply in cell after cell, which could lead to cancer, reproductive problems, birth defects or other ills. The researchers found that cadmium blocks "post-replication mismatch repair" of natural errors. This increases mutations "as much as 2,000 fold," said Dr. Michael Resnick, an NIEHS senior scientist and a co-author of the report. "Genetically, this can result in a vast increase in errors that could be catastrophic," Resnick said. The researchers say that the amount of cadmium needed to inhibit repair and increase mutations was remarkably small. "We saw substantial effect from cadmium exposure from concentrations that may well be environmentally relevant especially to cadmium-related industry workers and smokers," said Dr. Thomas Kunkel, another NIEHS senior scientist who worked on the study. Cadmium is a natural element, found in all soils and rocks, including coal and fertilizers. Its natural presence in air, water, soil and foodstuffs results mainly from mining and metal processing operations, gradual rock erosion and abrasion, as well as from volcanic eruptions. Cadmium is not mined, rather it is a byproduct of the smelting of other metals such as zinc, lead and copper. The soft, silver-white metal has been used for metal coatings, and in paint, plastics and batteries, because it does not corrode easily, has a low melting point and excellent electrical conduction. The primary health concerns are for industrial workers who may be exposed to generation concentrations, but the general population can be exposed to cadmium from breathing cigarette smoke, drinking contaminated water or eating foods that contain it. Smoking doubles the average daily intake. Cadmium disappears from organisms very slowly and its half-life in the human body can be as long as 20 years. Until banned by the EPA in 1997, cadmium carbonate and cadmium chloride were used as fungicides for golf courses and home lawns. The NIEHS studies, reported in today's online issue of the journal "Nature Genetics," were done in yeast cells - the living cells used to make bread rise - which have proved a useful tool for studying cellular activities. Previous work has demonstrated that what happens in yeast cells generally also happens in more complex life forms. The researchers say that their studies with extracts of human cells and initial studies in cultured human cells also suggest a similar mechanism to the one found in the study of yeast cells.

C) **Endoctrine disruption leads to human extinction**

Colborn, et al., 1997, Our Stolen Future: Are We Threatening Our Fertility, Intelligence, and Survival?, [PhD in Zoology and senior scientist at the World Wildlife Fund; Theo], p.

For a long time now we have been aware that the toxic chemicals which pervade our environment increase our cancer risk. But recent studies have shown that toxic chemicals known as EDCs - "endocrine disrupting chemicals" - have a wide range of serious health effects beyond cancer. Younger males have lower sperm counts: Four studies to date show a precipitous drop in human male sperm counts in recent decades. The younger the males, those born in the 1970's, have lower sperm counts because they - and their mothers - have been exposed to the EDCs longer than those who were born in the 40's or 50's. Damage the immune system and the brain: Hormone disrupting chemicals act broadly and insidiously to sabotage fertility and fetal development, they also damage the immune system and the brain. EDCs can jeopardize the survival of an entire species - perhaps in the long run, even humans.

### Decision Calc

**Evaluate consequences---allowing violence for the sake of moral purity is evil**

Isaac, 02 (Jeffrey C., Professor of Political Science – Indiana-Bloomington, Director – Center for the Study of Democracy and Public Life, Ph.D. – Yale, Dissent Magazine, 49(2), “Ends, Means, and Politics”, Spring, Proquest)

As writers such as Niccolo Machiavelli, Max Weber, Reinhold Niebuhr, and Hannah Arendt have taught, an **unyielding concern with moral goodness undercuts political responsibility. The concern may be morally laudable,** reflecting a kind of personal integrity, **but it suffers from three fatal flaws: (1) It fails to see that** the **purity of** one’s **intention does not ensure** the **achievement of what one intends.** Abjuring violence or refusing to make common cause with morally compromised parties may seem like the right thing; but **if** such **tactics entail impotence,** then **it is hard to view them as serving any moral good beyond the clean conscience of their supporters; (2)** it fails to see that **in a world of real violence** and injustice, **moral purity is** not simply a form of powerlessness; it is often a form of **complicity in injustice.** This is why, from the standpoint of politics--as opposed to religion--pacifism is always a potentially immoral stand. In **categorically repudiating violence**, it **refuses** in principle **to oppose** certain **violent injustices with any effect; and (3)** it fails to see that **politics is as much about unintended consequences as** it is about **intentions; it is the effects of action, rather than the motives of action, that is most significant. Just as** the **alignment with “good” may engender impotence, it is often** the **pursuit of “good”** that **generates evil. This is the lesson of communism** in the twentieth century: **it is not enough that one’s goals be sincere** or idealistic; **it is equally important**, always, **to ask about** the **effects of pursuing** these **goals and to judge** these **effects in pragmatic** and historically contextualized **ways. Moral absolutism inhibits this judgment. It alienates those who are not true believers.** It promotes arrogance. **And it undermines political effectiveness.**

**war is at its lowest level in history because of U.S. hegemony—best statistical studies prove heg solves war because it makes democratic peace resilient and globalization sustainable—these are the deeper cause of proximate checks against war**

**Owen 11** - Professor of Politics at University of Virginia and PhD from Harvard (John M., 2/11/11, "DON’T DISCOUNT HEGEMONY", http://www.cato-unbound.org/2011/02/11/john-owen/dont-discount-hegemony/, KONTOPOULOS)

Andrew Mack and his colleagues at the Human Security Report Project are to be congratulated. Not only do they present a study with a striking conclusion, driven by data, free of theoretical or ideological bias, but they also do something quite unfashionable: they bear good news. Social scientists really are not supposed to do that. Our job is, if not to be Malthusians, then at least to point out disturbing trends, looming catastrophes, and the imbecility and mendacity of policy makers. And then it is to say why, if people listen to us, things will get better. We do this as if our careers depended upon it, and perhaps they do; for if all is going to be well, what need then for us? Our colleagues at Simon Fraser University are brave indeed. That may sound like a setup, but it is not. I shall challenge neither the data nor the general conclusion that violent conflict around the world has been decreasing in fits and starts since the Second World War. When it comes to violent conflict among and within countries, things have been getting better. (The trends have not been linear—Figure 1.1 actually shows that the frequency of interstate wars peaked in the 1980s—but the 65-year movement is clear.) Instead I shall accept that Mack et al. are correct on the macro-trends, and focus on their explanations they advance for these remarkable trends. With apologies to any readers of this forum who recoil from academic debates, this might get mildly theoretical and even more mildly methodological. Concerning international wars, one version of the “nuclear-peace” theory is not in fact laid to rest by the data. It is certainly true that nuclear-armed states have been involved in many wars. They have even been attacked (think of Israel), which falsifies the simple claim of “assured destruction”—that any nuclear country A will deter any kind of attack by any country B because B fears a retaliatory nuclear strike from A. But the most important “nuclear-peace” claim has been about mutually assured destruction, which obtains between two robustly nuclear-armed states. The claim is that (1) rational states having second-strike capabilities—enough deliverable nuclear weaponry to survive a nuclear first strike by an enemy—will have an overwhelming incentive not to attack one another; and (2) we can safely assume that nuclear-armed states are rational. It follows that states with a second-strike capability will not fight one another. Their colossal atomic arsenals neither kept the United States at peace with North Vietnam during the Cold War nor the Soviet Union at peace with Afghanistan. But the argument remains strong that those arsenals did help keep the United States and Soviet Union at peace with each other. Why non-nuclear states are not deterred from fighting nuclear states is an important and open question. But in a time when calls to ban the Bomb are being heard from more and more quarters, we must be clear about precisely what the broad trends toward peace can and cannot tell us. They may tell us nothing about why we have had no World War III, and little about the wisdom of banning the Bomb now. Regarding the downward trend in international war, Professor Mack is friendlier to more palatable theories such as the “democratic peace” (democracies do not fight one another, and the proportion of democracies has increased, hence less war); the interdependence or “commercial peace” (states with extensive economic ties find it irrational to fight one another, and interdependence has increased, hence less war); and the notion that people around the world are more anti-war than their forebears were. Concerning the downward trend in civil wars, he favors theories of economic growth (where commerce is enriching enough people, violence is less appealing—a logic similar to that of the “commercial peace” thesis that applies among nations) and the end of the Cold War (which end reduced superpower support for rival rebel factions in so many Third-World countries). These are all plausible mechanisms for peace. What is more, none of them excludes any other; all could be working toward the same end. That would be somewhat puzzling, however. Is the world just lucky these days? How is it that an array of peace-inducing factors happens to be working coincidentally in our time, when such a magical array was absent in the past? The answer may be that one or more of these mechanisms reinforces some of the others, or perhaps some of them are mutually reinforcing. Some scholars, for example, have been focusing on whether economic growth might support democracy and vice versa, and whether both might support international cooperation, including to end civil wars. We would still need to explain how this charmed circle of causes got started, however. And here let me raise another factor, perhaps even less appealing than the “nuclear peace” thesis, at least outside of the United States. That factor is what international relations scholars call hegemony—specifically American hegemony. A theory that many regard as discredited, but that refuses to go away, is called hegemonic stability theory. The theory emerged in the 1970s in the realm of international political economy. It asserts that for the global economy to remain open—for countries to keep barriers to trade and investment low—one powerful country must take the lead. Depending on the theorist we consult, “taking the lead” entails paying for global public goods (keeping the sea lanes open, providing liquidity to the international economy), coercion (threatening to raise trade barriers or withdraw military protection from countries that cheat on the rules), or both. The theory is skeptical that international cooperation in economic matters can emerge or endure absent a hegemon. The distastefulness of such claims is self-evident: they imply that it is good for everyone the world over if one country has more wealth and power than others. More precisely, they imply that it has been good for the world that the United States has been so predominant. There is no obvious reason why hegemonic stability theory could not apply to other areas of international cooperation, including in security affairs, human rights, international law, peacekeeping (UN or otherwise), and so on. What I want to suggest here—suggest, not test—is that American hegemony might just be a deep cause of the steady decline of political deaths in the world. How could that be? After all, the report states that United States is the third most war-prone country since 1945. Many of the deaths depicted in Figure 10.4 were in wars that involved the United States (the Vietnam War being the leading one). Notwithstanding politicians’ claims to the contrary, a candid look at U.S. foreign policy reveals that the country is as ruthlessly self-interested as any other great power in history. The answer is that U.S. hegemony might just be a deeper cause of the proximate causes outlined by Professor Mack. Consider economic growth and openness to foreign trade and investment, which (so say some theories) render violence irrational. American power and policies may be responsible for these in two related ways. First, at least since the 1940s Washington has prodded other countries to embrace the market capitalism that entails economic openness and produces sustainable economic growth. The United States promotes capitalism for selfish reasons, of course: its own domestic system depends upon growth, which in turn depends upon the efficiency gains from economic interaction with foreign countries, and the more the better. During the Cold War most of its allies accepted some degree of market-driven growth. Second, the U.S.-led western victory in the Cold War damaged the credibility of alternative paths to development—communism and import-substituting industrialization being the two leading ones—and left market capitalism the best model. The end of the Cold War also involved an end to the billions of rubles in Soviet material support for regimes that tried to make these alternative models work. (It also, as Professor Mack notes, eliminated the superpowers’ incentives to feed civil violence in the Third World.) What we call globalization is caused in part by the emergence of the United States as the global hegemon. The same case can be made, with somewhat more difficulty, concerning the spread of democracy. Washington has supported democracy only under certain conditions—the chief one being the absence of a popular anti-American movement in the target state—but those conditions have become much more widespread following the collapse of communism. Thus in the 1980s the Reagan administration—the most anti-communist government America ever had—began to dump America’s old dictator friends, starting in the Philippines. Today Islamists tend to be anti-American, and so the Obama administration is skittish about democracy in Egypt and other authoritarian Muslim countries. But general U.S. material and moral support for liberal democracy remains strong.

**The ballot should prefer the advocacy that avoids the fastest and most probable internal link to extinction**

Bostrom Prof at Oxford, 02

Nick Bostrom, PhD and Professor at Oxford University, March, 2002 [Journal of Evolution and Technology, vol 9] <http://www.nickbostrom.com/existential/risks.html>

Previous sections have argued that the combined probability of the existential risks is very substantial. Although there is still a fairly broad range of differing estimates that responsible thinkers could make, it is nonetheless arguable that because the negative utility of an existential disaster is so enormous, the objective of reducing existential risks should be a dominant consideration when acting out of concern for humankind as a whole. It may be useful to adopt the following rule of thumb for moral action; we can call it Maxipok: Maximize the probability of an okay outcome, where an “okay outcome” is any outcome that avoids existential disaster. At best, this is a rule of thumb, a prima facie suggestion, rather than a principle of absolute validity, since there clearly are other moral objectives than preventing terminal global disaster. Its usefulness consists in helping us to get our priorities straight. Moral action is always at risk to diffuse its efficacy on feel-good projects[[24]](http://www.nickbostrom.com/existential/risks.html%22%20%5Cl%20%22_ftn24#_ftn24) rather on serious work that has the best chance of fixing the worst ills. The cleft between the feel-good projects and what really has the greatest potential for good is likely to be especially great in regard to existential risk. Since the goal is somewhat abstract and since existential risks don’t currently cause suffering in any living creature[[25]](http://www.nickbostrom.com/existential/risks.html%22%20%5Cl%20%22_ftn25#_ftn25), there is less of a feel-good dividend to be derived from efforts that seek to reduce them. This suggests an offshoot moral project, namely to reshape the popular moral perception so as to give more credit and social approbation to those who devote their time and resources to benefiting humankind via global safety compared to other philanthropies. Maxipok, a kind of satisficing rule, is different from Maximin (“Choose the action that has the best worst-case outcome.”)[[26]](http://www.nickbostrom.com/existential/risks.html#_ftn26#_ftn26). Since we cannot completely eliminate existential risks (at any moment we could be sent into the dustbin of cosmic history by the advancing front of a vacuum phase transition triggered in a remote galaxy a billion years ago) using maximin in the present context has the consequence that we should choose the act that has the greatest benefits under the assumption of impending extinction. In other words, maximin implies that we should all start partying as if there were no tomorrow. While that option is indisputably attractive, it seems best to acknowledge that there just might be a tomorrow, especially if we play our cards right.

**Multiple statistical measures prove a trend towards equality---this isn’t to say that everything is OK, but that falsifiable claims matter for assessing impacts AND that engagement can be effective**

**Currie, 08** <http://www.american.com/archive/2008/november-11-08/the-long-march-of-racial-progress/> Duncan Currie is managing editor of THE AMERICAN. Speechwriter and Policy Advisor in U.S. Senate Washington D.C. Metro Area | Government Administration Current: Speechwriter and Policy Advisor, Office of Senator John Cornyn at United States Senate Past: Editorial Director at The George W. Bush Institute, Deputy Managing Editor at National Review, Managing Editor at The American Enterprise Institu... Education: Harvard University

Measuring racial progress is all about perspective. Since Appomattox, the struggle for racial equality has seen triumphs and setbacks alike. On balance, however, the story of race relations in America is one of extraordinary change and transformation. According to Princeton historian James McPherson, the rate of black illiteracy dropped from roughly 90 percent in 1865 to 70 percent in 1880 and to under 50 percent in 1900. “From the perspective of today, this may seem like minimal progress,” McPherson wrote in his 1991 book, Abraham Lincoln and the Second American Revolution (a collection of essays). “But viewed from the standpoint of 1865 the rate of literacy for blacks increased by 200 percent in fifteen years and by 400 percent in thirty-five years.” McPherson also noted that the share of school-age black children attending school jumped from 2 percent in 1860 to 34 percent in 1880. “During the same period,” he said, “the proportion of white children of school age attending school had grown only from 60 to 62 percent.” In 1908, 100 years before the election of America’s first black president, there was a bloody race riot in Springfield, Illinois, which began when an angry mob surrounded a prison where a black man falsely accused of rape was being held. As columnist George Will has observed, “The siege of the jail, the rioting, the lynching, and mutilating all occurred within walking distance of where, in 2007, Barack Obama announced his presidential candidacy.” Over the past century, the racial attitudes of white Americans have undergone a sea change. The shift toward greater racial tolerance was driven by many factors, including blacks’ participation in World War II, the integration of professional sports and the military, and the civil rights movement. “Even as Americans were voting more conservatively in the 1980s, their views on race were becoming more liberal,” Wall Street Journal senior editor Jonathan Kaufman wrote recently. “More than three quarters of whites in 1972 told pollsters that ‘blacks should not push themselves where they are not wanted.’ Two-thirds of whites that same year said they opposed laws prohibiting racial discrimination in the sale of homes. Forty percent said whites had the right to live in segregated neighborhoods.” However, “By the end of 1980s, all those numbers had fallen markedly and [they] continued to fall through the following decades.” As University of Michigan sociologist Reynolds Farley points out in a new paper, there are now 41 African Americans serving in the House of Representatives, compared to only six when the Kerner Commission issued its famous report on race and poverty in 1968. During the years following the Kerner Report, “The slowly rising incomes of black men and the more rapidly rising incomes of black women produced an important economic change for African Americans,” Farley writes. “In 1996, **for the first time, the** majority of blacks were in the economic middle class or above, if that means living in a household with an income at least twice the poverty line.” According to Farley, “Only three percent of African Americans could be described as economically comfortable in 1968. That has increased to 17 percent at present. This is an unambiguous sign of racial progress: one black household in six could be labeled financially comfortable.” He notes that the black-white poverty gap “is much smaller now” than it was in the late 1960s. Residential and marriage trends are also encouraging. “The trend toward less residential segregation that emerged in the 1980s and accelerated in the 1990s continues in this century,” says Farley. Meanwhile, interracial marriage rates have increased dramatically. “At the time of the Kerner Report, about one black husband in 100 was enumerated with a white spouse. By 2006, about 14 percent of young black husbands were married to white women.”

## 2NC

### Decision Calculus

**Images of catastrophe cause an empathic shift---this is crucial in policy debate**

Recuber 11 Timothy Recuber is a doctoral candidate in sociology at the Graduate Center of the City. University of New York. He has taught at Hunter College in Manhattan "CONSUMING CATASTROPHE: AUTHENTICITY AND EMOTION IN MASS-MEDIATED DISASTER" gradworks.umi.com/3477831.pdf

Perhaps, then, what distant consumers express when they sit glued to the television watching a disaster replayed over and over, when they buy t-shirts or snow globes, when they mail teddy bears to a memorial, or when they tour a disaster site, is a deep, maybe subconscious, longing for those age-old forms of community and real human compassion that emerge in a place when disaster has struck. It is a longing in some ways so alien to the world we currently live in that it requires catastrophe to call it forth, even in our imaginations. Nevertheless, the actions of unadulterated goodwill that become commonplace in harrowing conditions represent the truly authentic form of humanity that all of us, to one degree or another, chase after in contemporary consumer culture every day. And while it is certainly a bit foolhardy to seek authentic humanity through disaster-related media and culture, the sheer strength of that desire has been evident in the public’s response to all the disasters, crises and catastrophes to hit the United States in the past decade. The millions of television viewers who cried on September 11, or during Hurricane Katrina and the Virginia Tech shootings, and the thousands upon thousands who volunteered their time, labor, money, and even their blood, as well as the countless others who created art, contributed to memorials, or adorned their cars or bodies with disaster-related paraphernalia— despite the fact that many knew no one who had been personally affected by any of these disasters—all attest to a desire for real human community and compassion that is woefully unfulfilled by American life under normal conditions today.

 In the end, the consumption of disaster doesn’t make us unable or unwilling to engage with disasters on a communal level, or towards progressive political ends—it makes us feel as if we already have, simply by consuming. It is ultimately less a form of political anesthesia than a simulation of politics, a Potemkin village of communal sentiment, that fills our longing for a more just and humane world with disparate acts of cathartic consumption. Still, the positive political potential underlying such consumption—the desire for real forms of connection and community—remains the most redeeming feature of disaster consumerism. Though that desire is frequently warped when various media lenses refract it, diffuse it, or reframe it to fit a political agenda, its overwhelming strength should nonetheless serve notice that people want a different world than the one in which we currently live, with a different way of understanding and responding to disasters. They want a world where risk is not leveraged for profit or political gain, but sensibly planned for with the needs of all socio-economic groups in mind. They want a world where preemptive strategies are used to anticipate the real threats posed by global climate change and global inequality, rather than to invent fears of ethnic others and justify unnecessary wars. They want a world where people can come together not simply as a market, but as a public, to exert real agency over the policies made in the name of their safety and security. And, when disaster does strike, they want a world where the goodwill and compassion shown by their neighbors, by strangers in their communities, and even by distant spectators and consumers, will be matched by their own government. Though this vision of the world is utopian, it is not unreasonable, and if contemporary American culture is ever to give us more than just an illusion of safety, or empathy, or authenticity, then it is this vision that we must advocate on a daily basis, not only when disaster strikes.

### Corporate Turn

**Indigenous persons require private investors to provide capital for constructing wind plants**

Masterson, 2010, American Indian Law Review, vol. 34, WIND-ENERGY VENTURES IN INDIAN COUNTRY: FASHIONING A FUNCTIONAL PARADIGM, [Third-year student, University of Oklahoma College of Law; Crystal], p. 330-31

The typical cost of installing one megawatt of turbine capacity requires approximately $2 million in capital. Recognizing that a common size for a wind project includes one hundred megawatts of capacity, the preliminary cost of establishing a wind project is formidable. Although the initial investment represents almost the entirety of the necessary funding (because a wind farm requires little in the way of maintenance costs and no fuel costs), Indian communities do not have such sizeable capital reserves at their disposal. As a result, they are forced to seek out private investors in order to proceed, an action that can spawn further problems for tribes desiring more managerial control than financing sponsors might be willing to allow.

**Indigenous persons lack expertise to pursue renewable energy—private partners are vital**

Sullivan, 2010, Arizona Law Review, vol. 52, CHANGING WINDS: RECONFIGURING THE LEGAL FRAMEWORK FOR RENEWABLE-ENERGY DEVELOPMENT IN INDIAN COUNTRY, [J.D. Candidate, University of Arizona; Bethany], p. 832-33

While some tribes are fortunate enough to have investment capital readily available, most tribes are not capable of financing large-scale renewable-energy projects on their own. Furthermore, most tribes do not have the requisite expertise and experience in the field of renewable energy to complete these projects independently. For these reasons, it is imperative for tribes to have the ability to form mutually beneficial partnerships with outside business interests.

**Lack of capacity ensures no accountability**

Sislin, 2010, Sovereignty versus stewardship, April 28, [Esq., Advocacy Director for Women's Earth Alliance http://www.hcn.org/hcn/greenjustice/blog/sovereignty-versus-stewardship

Last month, Sen. Byron Dorgan (D-N.D.) released the draft of a bill intended to “unlock the potential of Indian energy resources.” The bill would amend the Energy Policy Act of 1992 to ease restrictions on extractive industry’s activities on tribal lands, including the elimination of federal drilling fees, the reduction of federal environmental oversight, and the exemption of tribes from non-federal taxes on energy development projects. **Through these marked limitations on federal environmental regulation of tribal energy projects, and the concomitant promotion of a “one-stop-shopping” federal permitting process for energy companies seeking to exploit tribal energy resources, the bill pits tribal sovereignty against environmental stewardship**. All of this is in service of prolonged reliance on fossil fuel energy resources. Under section 204(b) of Dorgan’s draft bill, “Environmental Review,” **the federal government effectively divests itself of environmental review** responsibility, **turning that resource-intensive and expertise-dependent task over to tribal governments**. **This** provision, which allows the Secretary of the Interior to “delegate to any participating Indian tribe the responsibility to carry out any environmental review, decision making, or other activity pursuant to the National Environmental Policy Act” **provokes the concern among some citizens that tribal leaders – relatively unprepared to review energy project proposals, and interested in obtaining sorely-needed funds from those projects to build tribal economies – may rush to approve environmentally-harmful projects on tribal lands.**

**Using renewable energy as a front for economic sovereignty merely opens the land to further exploitation big business, turning the case**

Lindgren, 2006, “Native Power Struggles”, Utne Reader, 11/16/06, [Suzanne], p. http://www.utne.com/2006-11-01/NativePowerStruggles.aspx

None of us seem to know where our energy fix will come from after the oil wells run dry. Solar, wind, and hydroelectric power are all options, and the government and energy industry have cast an eye on Native American soil as ground to experiment with alternative energy. But these lands are also flush with oil, coal, and natural gas, causing some to wonder if space for turbines is all they want. According to a piece by Brenda Norrell in [Indian Country Today](http://www.indiancountry.com/search.cfm?category=0&cookie=yes&category2=0&author=0&phrase=Federal%20energy%20bill,%20economic%20opportunity%20or%20Bush), the 2005 Energy Policy Act encourages investment in renewable energy on reservations through 'incentives' and looser federal restrictions on tribe's lands. And though supporters say business investments will increase Native American sovereignty, economic development, and the expansion of renewable energy sources, critics point out that the energy bill also withdraws important government protections on the land, which could enable big business to exploit native territories. In [LiP Magazine](http://www.lipmagazine.org/articles/featawehali_nativefutures.htm), Brian Awehali writes that the US government and energy industry may not mind erecting a few wind turbines on tribal territory if it means they also get access to the other fuel sources locked up in those lands. As Awehali notes, one section in Title V of the 2005 Energy Policy Act gives the government 'power to grant rights of way through Indian lands without permission from Indian tribes, if deemed to be in the strategic interests of an energy-related project.' And Clayton Thomas-Muller, organizer of the [Indigenous Environment Network's Native Energy Campaign](http://www.ienearth.org/energy.html), claims that in addition to eliminating the protections of the National Environmental Policy Act and the National Historic Preservation Act, the new act promotes sending nuclear waste to Indian lands and mining more uranium from them. ''As usual,' a former tribal chairman tells Indian Country Today, 'energy companies will kill our pig, skin it, take the meat - mostly at government expense - and leave us with bones and hooves.''

### AT: No Link

**‘Choice’ favors corporations—resource disparities and empirics**

Getzan, 2004, The New Standard, 1/18, Energy Act Provision May Offer ‘False Sovereignty,’ [Contributing Journalist], http://newstandardnews.net/content/?action=show\_item&itemid=110

A controversial provision of the Energy Policy Act of 2003 has Native American activists worried that their lands will become even more vulnerable to exploitation from large energy corporations. Jan 18, 2004 - Depending on who you talk to, a provision in the Energy Policy Act of 2003 will either make it increasingly easy for large corporations to treat Native American reservations like “batteries for large cities,” or it will or help ensure tribal sovereignty. The provision causing controversy -- the Indian Tribal Energy Development and Self Determination Act, or Title V -- places tribal governments, rather than the U.S. Department of the Interior, at the center of the decision making process concerning reservations' energy development. The act also provides subsidies for increased oil and gas extraction in general and encourages nuclear power plant construction and research. Though the bill stalled in the Senate last December, it is expected to be reintroduced in the coming session, possibly as soon as the end of this month. As it stands now, the federal government -- usually the Department of the Interior -- has a “trust responsibility” with the majority of American Indian tribes. Title V, save initial impact reviews, allows a tribal government the choice to once and for all opt out of involving the Department of the Interior in energy development projects. Opponents of the bill, including the advocacy group Native Movement, the Black Mesa Water Coalition, and the Indigenous Environmental Network, say that **persistent problems facing many American Indian communities cloud assurances that tribal governments alone, rather than stronger oversight all around, will lead to cleaner and less bureaucratic energy extraction on reservations.** However, David Lester, a citizen of the Muscogee Nation and the executive director of the Council of Energy Resource Tribes -- a group that promotes tribal independence through capitalizing on resource development -- and other advocates of the bill say that it will enable tribes to bargain as an "equal partner" with companies looking to mine or withdraw oil from their lands without “the stumbling blocks” of federal interference. “The [impact] review period has killed most of the deals” of tribes looking to utilize their resources, Lester said. “It's the hassle factor of doing business with the Department of the Interior as [an] interference every step of the way." “If they could control their own resources,” he added, “they could advance their own economic, social, political goals.” Opponents of Title V, on the other hand, say that **though this may seem like an opportunity for American Indians to get out from under an outdated and repressive federal scheme, there are flaws in both the resolution's intent and function. “Well-developed tribes may be ready to take on the responsibility of their own lands**,” said Evon Peter, director of the Native Movement and former chief of the Neetsaii Gwich'in of Alaska. “Those with money can have a say in how things work. Major **corporations are going to come in, with a lot more money, with a lot more lawyers. Now, these corporations are going to be able to do what they want with these tribal governments** . . . Basically, **it's the federal government stepping back from its responsibility and saying, 'Go for it, corporations.'”** Consumer advocate groups say that in the last decade, mining and dumping have had an adverse effect on many American Indian lands. For example, the Skull Valley Goshute reservation in Utah is planned as a pit stop for what the Department of Energy estimates will be a 100,000-shipment, thirty-year caravan of traveling nuclear waste. According to the Indigenous Environmental Network, just one component of the irradiated fuel that will be stored at Skull Valley, Plutonium 235, will remain toxic for the next 24,000 years, creating the possibility of an accident at the Goshute reservation that would quite literally poison the land forever. Besides the environmental impact of resource extraction and nuclear waste, **poor oversight has often led to Native Americans seeing little or no financial gain for resources removed from their land**. For example, in 1995, an article in American Indian Quarterly noted that as much as $180 million had been paid by oil companies in royalty fees to the Utah Navajo Trust Fund for operations near Aneth Montezuma Creek. Still, third-world conditions persisted over the forty plus years of extraction on Navajo lands. Seventy five percent of Utah Navajos still had no electricity or running water, and the fund was practically bankrupt due to mismanagement and fraud. By the end of the 1990s, Utah Navajos were left broke and stuck with nearly 600 oil wells drilled into their lands. However, according to advocates of the bill, the argument that Native American tribes are not yet ready to bargain with companies without the federal government's intervention ignores Native Americans' historical ability to set high environmental standards. Lester said the record shows that native communities, when given the chance to act independently, have made sound environmental decisions. He gives the example of the Northern Cheyenne in Montana who rejected a proposed coalmine outright, or the Pueblos of New Mexico, who are located downstream from Albuquerque and managed to turn around water quality for the whole region by setting high standards of their own. Lester said tribal activists and Democrats opposing Title V have been whipped up by activists in the environmental movement. “We can substitute the environmental movement for the BIA (Bureau of Indian Affairs). We can't accept federal paternalism, and we can't accept [environmental groups] maternalism.” “We've had a number of different eras in relations with the tribes,” says Paul Moorehead, Staff Director and Chief Legislative Counsel for the Committee on Indian Affairs. “But the clear trend [is moving] away from the massive federalization of tribal government.” Moorehead says that Title V represents a first step in an “analog” of trust liberalization that would extend into other fields on the reservation handled by the US government such as health care and law-enforcement. However, to many Native American ears, **arguments** such as those of Lester and Moorehead, **which present Title V as a mechanism for self-determination and economic freedom, ring hollow**. Many such promises have been made in the past -- like the Dawes Act, which at the time was hailed as a kind of “Magna Carta” for American Indians, but in reality functioned only as a colonial land grant system. “It's put forward as a tool for sovereignty, but really, it's just disguised as sovereignty,” said Enei Begaye, the director of the Black Mesa Water Coalition and an Arizona Navajo. “Really, **our tribes aren't given any real enforcement power. They're not equipped right now to take over [their] own environmental protection.”** Other critics of the bill, like Tom Goldtooth, the executive director of the Indigenous Environmental Network, say that another problem with the bill is that large scale **energy resource extraction stands in direct contradiction to native cultural traditions. “It is at the detriment of something we hold sacred,”** Goldtooth said. “**These corporations have no interests in the rights of indigenous people. It is a form of environmental racism.”**

### AT: Trust Doctrine Bad

**Trust doctrine and the federal relationship is good in the context of the environment**

1.Avoids assimilation 4. Enables increased government expertise.

2. Helps nation members. 5. Solves environmental harms that threaten Indians.

3. Causes economic self-sufficiency

DuBey, '88 (Attorney -- DuBey Law Firm, 18 Envtl. L. 449)

The tribal interests favoring precluding state hazardous waste regulation in Indian country are presented throughout this analysis. The tribal interests weighing heavily against extending state jurisdiction into Indian country include: (1) self-government, (2) tribal sovereignty, (3) tribal self-sufficiency, (4) the reservation environment, and (5) protecting the health and welfare of the reservation population. States are beginning to recognize these tribal interests. As one commentator recently noted, "[s]tates are increasingly acknowledging Native American sovereignty and showing a preference for cooperation with tribes to resolve shared environmental problems." 95 **The following specific interests are served by exclusive federal/~~tribal~~ regulation of the reservation environment: \* Unhampered and full Indian** ~~tribal~~ **participation in federal environmental programs strengthens the infrastructure of** ~~tribal~~ **government and avoids increased assimilation**. This is consistent with federal policy to promote Indian self-government and government-to-government relations between Indian tribes and the federal government. [\*471] \* Indian and non-Indian social and economic preferences are often at variance. **Indian participation in federal environmental programs is essential to enable Indian land use choices to be made in response to the economic priorities of people most directly affected**

**.**  \* **Indian-devised environmental programs which clearly define the on-reservation regulatory environment will serve to encourage prospective business investors**. Continued jurisdictional wrangling and the consequent atmosphere of uncertainty further aggravates the existing reluctance to locate businesses on the reservation. The resulting lack of investment or economic interest by the private sector would be at variance with federal policy regarding tribal autonomy. \* ~~Tribal~~ **participation in federal environmental programs will enable** ~~tribal~~ **members to develop technical expertise and administrative skills. Such qualities will enable the** ~~tribe~~ **to more effectively implement** ~~tribal~~ **programs and will enable the** ~~tribe~~ **to interact more favorably with the outside community**. The more credible the tribal program, the more likely that private investment capital will be made available for on-reservation economic development. \* ~~Tribal~~ **environmental protection programs provide** ~~tribes~~ **with the means to mitigate those adverse environmental impacts associated with any proposed economic development on the reservation,** whether the project proponent is tribal or non-tribal. Such tribal programs thus serve to encourage economic development on the one hand while ensuring that the proposed project could be consistent with the tribal goal of maintaining a healthful reservation environment. \* The potential effects of hazardous waste on reservation groundwater quality is of particular concern to many tribes. Indian tribes depend on surface and groundwater sources, not only for economic development purposes, but also for consumption, making clean water critical to their very survival. If present in sufficient quantities, hazardous wastes pose a serious human health threat and a barrier to tribal economic development. To address each of these concerns, tribes, as sovereign governments, must be able to exercise regulatory authority under RCRA in order to protect the reservation population's health and welfare and the quality of the reservation environment.

## 1NR

### Turns Structural Violence

**The DA turns structural violence**

**Goldstein, 01** PROF OF INTERNATIONAL RELATIONS @ AMERICAN UNIV (JOSHUA, WAR AND GENDER, P. 412)

First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, “if you want peace, work for justice.” Then, if one believes that sexism contributes to war one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars’ outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices. 9 So,”if you want peace, work for peace.” Indeed, if you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to “reverse women’s oppression.” The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book’s evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate.

### Nazi Impact

**The anti-immigrant sentiment over the economy culminates in ethnic violence that mirrors the logic of the Nazis**

**Kohn 9** Sally Kohn, Senior strategist with the Center for Community Change, “The Bloody Truth Behind Anti-Immigrant Rhetoric”, The Huffington Post, June 16, 2009, p. <http://www.huffingtonpost.com/sally-kohn/the-bloody-truth-behind-a_b_216488.html>

A week after a **white supremacist attacked the Holocaust Museum** in Washington, DC, **and** on the day that **three teenagers are being sentenced** in Shenandoah, Pennsylvania, **for brutally beating and killing a Mexican immigrant, it's time we confront the fact that behind violently anti-immigrant and supremacist rhetoric is a real urge and a real encouragement for actual violence**. On May 30, 2009, a group of armed men and women killed 9-year-old Brisenia Flores and her father in Arivaca, AZ. The vigilantes were Minutemen, members of a "civilian defense corps" that polices the US-Mexico border for undocumented immigrants. When Jason Bush, 34, Shawna Forde, 41, and Albert Gaxiola, 42, allegedly busted down the front door of the Flores home and murdered Raul Junior Flores and his daughter and seriously injured Flores' wife, the armed gang was supposedly looking for drugs and cash to fund their anti-immigrant organization. Arizona police allege Shawna Forde was the ringleader. Shawna Forde was the Executive Director of Minuteman American Defense (M.A.D.) and a spokesperson for the Federation for American Immigration Reform (FAIR), often touted as a "mainstream" voice opposing immigration. But if Forde was indeed involved, **the bloody acts** in Arivaca **reveal the true hatred and contempt behind anti-immigrant organizations in our country**. **Many well-meaning, average Americans who have understandable concerns about our economy and how they're going to support their families have been convinced that anti-immigrant organizations are on their side** and feel their pain. **But the reality is, organizations like the Minutemen and FAIR are only co-opting our economic insecurity** (an insecurity that's actually shared by immigrants and citizens alike) **to mask their real agenda, motivated purely by hatred for those who are different. It was the same thing in Nazi Germany. Adolf Hitler started by talking about how Jews were threatening the German economy and should all be expelled from the country. And then he killed six million. Are we really so naïve as a nation to think that the anti-immigrant fervor, from Lou Dobbs to the Minutemen, is anything about our economy** or our well-being or our way of life? After all,our nation was built by immigrants,our strongest economic times in recent years have been driven by high rates of immigration and even now, our economy actively lures low-wage worker from across the border to get back on firm footing. Do we really think we'd be reacting as negatively if the immigrants coming here had light skin and spoke French? Jason Bush, one of the other Minutemen charged in the Arizona murder, was charged in another slaying in 1997 in Washington State. He allegedly bragged to a police informant about "killing a Mexican." The man Bush killed was a 29-year-old homeless man who had been sleeping under a blanket near a parking lot when Bush stabbed him several times with a knife. Regarding the Arizona murders, the Minutemen American Defense group has placed the following statement on its website: MAD does not endorse or condone any events that are outside of the normal boundaries of any normal private citizen who is concerned about the current conditions of the opened border condition and we do work totally within the boundaries and with the total cooperation and knowledge of all appropriate Law enforcement agencies in our areas of operation. While revealing how ironic it is that groups like M.A.D. criticize new immigrants for not speaking English, the statement does anything but condemn violence against immigrants. It's worth noting here that Forde and her gang allegedly entered the Flores home wearing law enforcement attire. Groups like the Minutemen are pretending to uphold laws that they flagrantly violate. Who are the real law breakers? Immigrants who come to the United States without legal permission but every single economic invitation, to work for companies that actively recruit them in order to support their desperate families back home? Or the vigilantes who prowl our southern border with assault rifles and camouflage and raid innocent families' homes and slaughter 9-year-old children? "This was a planned home invasion where the plan was to kill all the people inside this trailer so there would be no witnesses," said Sheriff Clarence Dupnik of Pima County, Arizona. "To just kill a 9-year-old girl because she might be a potential witness to me is just one of the most despicable acts that I have heard of." I actually feel badly for Shawna Forde. She was fed a load of crap about how her economic troubles and sense that the 21st century was passing her by were the fault not of something vague like the public education system or American trade policies or Reaganomics but something specific, **something dark-skinned, something that fit perfectly into the us-versus-them scary story that readily embraces misplaced blame: immigrants**. **Never mind that we were all in the same boat, sinking fast, immigrants and citizens alike** --- and never mind that shaking her fist at foreigners and patrolling the US-Mexico border was distracting Shawna from taking action that would have brought about real change, like making our economy more democratic, changing tax policy to help working families, easing the burden of health care costs and gas. No, Shawna believed the hate mongerers on CNN and the internet and stuck to her guns. Literally. But if the allegations against her are true, Shawna can really only be blamed for taking to extremes the garbage that so many Americans believe is true, the lies we swallow to make the bigger pill of America's real, shared problems seemingly dissolve but in truth get stuck in our collective throat as we're looking the other way. The alleged acts of Shawna Forde and her gang are inhumane. Our outdated immigration policies are inhumane. **We can and must reform our immigration laws to make America work better for all of us, immigrants and citizens alike. That is the only pro-America side of this debate. Everything else must be unmasked for what it is -- a façade for an anti-immigrant bloodbath**. On which side will you stand?

### UQ

**Experts predict CIR passage before August**

Sheets, 3-22-13, International Business Times, Immigration Reform Bill Suddenly Close: What Made Republicans Change Their Minds?, [Connor Adams], p. http://www.ibtimes.com/immigration-reform-bill-suddenly-close-what-made-republicans-change-their-minds-1145763#

When President Barack Obama called on Congress to send him an immigration bill “in the next few months” during his 2013 State of the Union address in January, many were skeptical that it would actually happen. By now it’s a tired trope that the obstructionist tactics of Republican legislators have left Washington sclerotic, all but unable to address many of the issues facing America as Obama begins his second term in the White House . But immigration reform is turning out to be one area of policy where action is happening, and experts on the issue say that a landmark law will likely be on the books by the end of this summer. “People want to get this done well before the August recess, and people are talking about before July 4,” David Koelsch, an attorney and law professor who runs the Immigration Law Clinic at the University of Detroit Mercy, said. “A signing ceremony on the Fourth of July looks really good, there’s nice optics around that.” It’s almost shocking at this point to see members of Congress from both sides of the aisle coming together to support a groundbreaking piece of important legislation. But that’s what’s happening as even Tea Party-backed Republicans like Senator Rand Paul of Kentucky are coming into the fold and endorsing a path to citizenship and other pillars of what is shaping up to be the framework for comprehensive immigration reform. There are still some differences between even the most centrist members of Congress that must be ironed out, but in most cases they are disagreements of scale and specifics, and a consensus about what to include in the bill is taking shape.

### AT: Guest Workers

**Talks back on track—deal will be reached**

Brown, 3-27-13, Politico, Immigration talks back on track, union says [Carrie Budoff], p. http://www.politico.com/story/2013/03/immigration-talks-back-on-track-union-says-89398.html

Talks on a new visa program for low-skilled workers are “back on the right track” after a dispute over wages stalled progress on a Senate immigration reform bill, the lead union negotiator said Wednesday. Ana Avendaño, immigration director for the AFL-CIO, said negotiations are continuing with a bipartisan group of senators and the U.S. Chamber of Commerce on the outlines of a broad new visa program aimed at balancing the need for foreign workers in low-skilled jobs with the desires of American workers competing for those same jobs. She would not say whether last week’s wage dispute has been resolved. But she suggested that negotiators are moving away from a business-backed proposal to pay the lowest-level wage to many of the new workers. “I can say for almost certain that poverty-level wages will not be codified into statute,” Avendaño said. Blair Latoff Holmes, a Chamber spokeswoman, said the two sides “continue to talk and we remain hopeful a deal will be reached.”

### AT: PC Not Key

**Obama political capital is key to forging a compromise**

Kaplan, 3-21-13, National Journal, How the Tea Party Came Around on Immigration, [Rebecca], p. factiva

In the other chamber, Sen. Marco Rubio, R-Fla., has signed onto a comprehensive bipartisan framework with seven other senators that carves out a way for current illegal immigrants to eventually become citizens—provided that further measures are first taken to slow illegal immigration. Sen. Rand Paul, R-Ky., who attracted national attention with his 13-hour filibuster over the administration’s drone policies, just this week injected himself into the immigration debate with a speech unveiling his own plan that calls for comprehensive reform. Sen. Mike Lee, R-Utah, who claims strong tea-party backing, was initially part of the bipartisan Senate talks but ultimately backed out, saying he agreed with a majority of the plan’s principles but could not support what he saw as a special path to citizenship for people who broke the law. Then there’s another Hispanic lawmaker, Sen. Ted Cruz, R-Texas, who in his brief time since his election in 2012 has already made a name for himself as an outspoken member of the minority. He says he’s interested in beefing up border security and fixing the legal immigration system—but not a plan that contains a path to citizenship for illegal immigrants. It’s too simplistic to say that the fate of immigration reform hinges on these six Republicans. As with any big, complicated issue, a variety of forces are at work, including the Obama administration’s efforts to reach a compromise.

**Obama is key to keeping Democrats on board due to dissatisfaction with guest-worker provisions**

Davis & Hunter, 3-22-13, Bloomberg, Guest-Worker Visas Sticking Point on Immigration Rewrite, [Hirschfield Julie; Kathleen], p. http://www.bloomberg.com/news/2013-03-21/guest-worker-visas-sticking-point-on-immigration-rewrite.html

Former Pennsylvania Governor Ed Rendell, a Democrat co- chairing an immigration task force with Barbour at the Bipartisan Policy Center in Washington, said it is ultimately up to Obama to persuade Democrats not to abandon the bill if the immigrant-worker program doen’t match the unions’ agenda. “If we don’t get guest-worker provisions that are exactly in line with what labor wants, we can’t hold up the bill because of that,” Rendell said. “We’ve got to do the best we can to preserve and protect the interests of organized labor, but in the end you can’t always get what you want.”

**Yes vote switching—even due to unrelated legislation**

**Simes and Saunders ‘10** – \*publisher of the National Interest, Executive Director of The Nixon Center and Associate Publisher of The National Interest, served in the State Department from 2003 to 2005 [12/23, Dimitri and Paul, National Interest, “START of a Pyrrhic Victory?”, http://nationalinterest.org/commentary/start-pyrrhic-victory-4626, CMR]

Had the lame-duck session not already been so contentious, this need not have been a particular problem. Several Senate Republicans indicated openness to supporting the treaty earlier in the session, including Senator Lindsey Graham and Senator John McCain. Senator Jon Kyl—seen by many as leading Republican opposition to the agreement—was actually quite careful to avoid saying that he opposed New START until almost immediately prior to the vote. Our own conversations with Republican Senate sources during the lame duck session suggested that several additional Republicans could have voted to ratify New START under other circumstances; Senator Lamar Alexander is quoted in the press as saying that Republican anger over unrelated legislation cost five to ten votes. By the time the Senate reached New START, earlier conduct by Senate Democrats and the White House had alienated many Republicans who could have voted for the treaty. That the administration secured thirteen Republican votes (including some from retiring Senators) for the treaty now—and had many more potentially within its grasp—makes clear what many had believed all along: it would not have been so difficult for President Obama to win the fourteen Republican votes needed for ratification in the new Senate, if he had been prepared to wait and to work more cooperatively with Senate Republicans. Senator Kerry’s comment that “70 votes is yesterday’s 95” ignores the reality that he and the White House could have secured many more than 70 votes had they handled the process differently and attempts to shift the blame for the low vote count onto Republicans.

### AT: Thumpers

**Immigration is the top agenda item and Obama is lobbying Congress for passage**

Fifield, 3-20-13, Financial Times, Immigration: Pressure mounts on Obama to overhaul citizenship requirements, [Anna], p. http://www.ft.com/intl/cms/s/0/9235c2aa-8ad4-11e2-b1a4-00144feabdc0.html#axzz2OUBxAATN

With every attempt of the past decade ending in failure, is there any reason to think that this year’s effort at comprehensive immigration reform will be any more successful? High quality global journalism requires investment. Emboldened by his resounding re-election, Mr Obama has put reform at the top of his legislative agenda this year, urging Congress to pass a “common sense” bill that would create a pathway to citizenship for illegal immigrants and provide more visas for highly skilled workers. If it passes, the bill will mark the most profound immigration changes in a generation, not just for the US but for Mexico, too. About two-thirds of the estimated 11m undocumented people living in the US are Mexican and giving them the opportunity to earn US citizenship would have a significant impact on their earning power. Latin American immigrants who became citizens during the Reagan-era reforms in 1986 enjoyed wage increases in the range of 6 to 13 per cent, according to a report from the libertarian Cato Institute. If immigration reform includes a guest worker programme, that would benefit Mexico by allowing more seasonal workers to come and go as needed. But these are big ifs. Immigration reform is a tricky political issue at any time and especially so amid continuing economic malaise. Opponents of reform say that giving papers to unauthorised immigrants “rewards” them and allows them to take jobs away from Americans. Some even say it will precipitate a flood of new arrivals over the Mexican border. Some of the strongest advocates still put the prospects for reform passing this year at 50-50, citing opposition from conservative “Tea Party” members in the Republican-controlled House of Representatives. Bob Goodlatte, the Republican chairman of the House of Representatives judiciary committee, has argued against creating a pathway to citizenship for undocumented immigrants. “People have a pathway to citizenship right now: It's to abide by the immigration laws and if they have a family relationship, if they have a job skill that allows them to do that, they can obtain citizenship,” Mr Goodlatte said last month. Despite such rhetoric, there is cause for optimism. There has been new consensus between groups usually on opposite sides of the issue – the labour unions and big business lobbies – to push for reform, adding to pressure to overhaul the system. A bipartisan “gang of eight” senators has put forward a blueprint and similar efforts are under way in the House. But the biggest factor is simple demographics. Hispanic voters comprise the fastest growing part of the electorate and their share of the US population is forecast to rise from 17 per cent now to 29 per cent by 2050. The pressure group Voto Latino puts that in context, noting that there are 50,000 Hispanic Americans turning 18, the voting age, every month. The Hispanic electorate as a bloc has long tended to support Democrats. In last year’s election, 71 per cent backed Mr Obama, to Republican Mitt Romney’s 27 per cent. This was in large part because of Mr Romney’s hostile language during the Republican campaign, when he said that, if president, he would make conditions so bad for illegal immigrants that they would choose to “self-deport”. As they try to avoid further alienating the Hispanic electorate, some Republicans are eager to remove the issue of immigration from the table before the midterm elections at the end of next year. Influential conservatives have been expressing new-found support for reform and that could help its passage through Congress. Republicans have long insisted that security on the border needs to be tightened but the Obama administration’s increased enforcement – including the use of drones to monitor movement – and a record number of deportations has helped slow the flow of people entering the US illegally. The continued weakness in the US job market – and the relative health of the Mexican economy – has helped cut numbers, too. The Pew Hispanic Center last year suggested that the net flow of immigrants from Mexico to the US had actually ground to a halt. Mr Obama is keeping the pressure on Congress. “Send me a comprehensive immigration reform bill in the next few months and I will sign it right away,” he said in his State of the Union address last month. The president knows the clock is ticking. If reforms are not passed by September, the opportunity will pass. And that means immigration would be put back in the too-hard basket for a few more years.

**Framing issue---other issues won’t cost PC until they’re at the finish line**

**Drum, 10** (Kevin, Political Blogger, Mother Jones, http://motherjones.com/kevin-drum/2010/03/immigration-coming-back-burner)

Not to pick on Ezra or anything, but this attitude betrays a surprisingly common misconception about political issues in general. The fact is that political dogs never bark until an issue becomes an active one. Opposition to Social Security privatization was pretty mild until 2005, when George Bush turned it into an active issue. Opposition to healthcare reform was mild until 2009, when Barack Obama turned it into an active issue. Etc. I only bring this up because we often take a look at polls and think they tell us what the public thinks about something. But for the most part, they don't.1 That is, they don't until the issue in question is squarely on the table and both sides have spent a couple of months filling the airwaves with their best agitprop. Polling data about gays in the military, for example, hasn't changed a lot over the past year or two, but once Congress takes up the issue in earnest and the Focus on the Family newsletters go out, the push polling starts, Rush Limbaugh picks it up, and Fox News creates an incendiary graphic to go with its saturation coverage — well, that's when the polling will tell you something. And it will probably tell you something different from what it tells you now. Immigration was bubbling along as sort of a background issue during the Bush administration too until 2007, when he tried to move an actual bill. Then all hell broke loose. The same thing will happen this time, and without even a John McCain to act as a conservative point man for a moderate solution. The political environment is worse now than it was in 2007, and I'll be very surprised if it's possible to make any serious progress on immigration reform. "Love 'em or hate 'em," says Ezra, illegal immigrants "aren't at the forefront of people's minds." Maybe not. But they will be soon.

### AT: Budgets

**Congress will pivot toward immigration when they return from the spring recess**

Favole, 3-25-13, Dow Jones News Service, Obama Pushes Immigration Overhaul at Naturalization Ceremony [Jared], pfactiva

President Barack Obama said he expects Congress to begin debating ways to overhaul the immigration system when it returns from spring recess, and added that he's eager to sign a bill. "Everyone pretty much knows what's broken. Everybody knows how to fix it, " Mr. Obama said Monday while speaking at a naturalization ceremony for 28 active duty service members and civilians in the East Room of the White House. All that's left on an immigration overhaul, Mr. Obama said, is for Congress to muster "the political courage to do what's required to be done." Congress has devoted its energy in the last few months to budgets but when it returns in two weeks is expected to pivot to guns and immigration. Over the recess, a bipartisan group of senators will continue working on legislation that would increase U.S. border security and might provide a path to citizenship for the estimated 11 million people now in the U.S. illegally.

### AT: Guns

**Obama will not spend PC pushing gun bills—he’s saving PC for immigration**

Barrett, 3-20-13, Bloomberg Business Week, Five Hard Realities for Gun-Control Proponents [Paul], p. http://www.businessweek.com/articles/2013-03-20/five-hard-realities-for-gun-control-proponents

President Barack Obama isn’t serious about pushing gun control. Yes, he has given a few speeches, saying things like, “Weapons of war have no place in our streets or in our schools or threatening our law enforcement officers.” Notice, however, that the Feinstein bill died without a peep from the president. If there were a time for him to step up and spend political capital, it’s now. He’s not doing it. My bet is that he’s keeping his social-reform powder dry for immigration reform.

### AT: Winners Win

**Default to contextual ev—Obana can’t win on energy**

Eisler 12 “Science, Silver Buckshot, and ‘All of The Above’” April 2, [Researcher @ the Chemical Heritage Foundation; Matthew], http://scienceprogress.org/2012/04/science-silver-buckshot-and-%E2%80%9Call-of-the-above%E2%80%9D/

Conservatives take President Obama’s rhetoric at face value. Progressives see the president as disingenuous. No doubt White House planners regard delaying the trans-border section of the Keystone XL pipeline and approving the Gulf of Mexico portion as a stroke of savvy realpolitik, but one has to wonder whether Democratic-leaning voters really are as gullible as this scheme implies. And as for the president’s claims that gasoline prices are determined by forces beyond the government’s control (speculation and unrest in the Middle East), it is probably not beyond the capacity of even the mildly educated to understand that the administration has shown little appetite to reregulate Wall Street and has done its part to inflate the fear premium through confrontational policies in the Persian Gulf. Committed both to alternative energy (but not in a rational, comprehensive way) and cheap fossil fuels (but not in ways benefiting American motorists in an election year), President Obama has accrued no political capital from his energy policy from either the left or the right by the end of his first term.¶ The president long ago lost the legislative capacity for bold action in practically every field, including energy, but because the GOP’s slate of presidential candidates is so extraordinarily weak in 2012, he may not need it to get re-elected. At least, that is the conventional wisdom in Democratic circles. Should President Obama win a second term, Congress is likely to be even more hostile than in his first term, as in the Clinton years. And as in the Clinton years, that will probably mean four more years of inaction and increased resort to cant.

**Winners-win is empirically denied with Obama—each win eroded his political capital**

Eberly, 1-21-13, Baltimore Sun, The presidential power trap [Assistant Professor of Political Science and Public Policy, St. Mary’s College of Maryland; Todd],p. <http://articles.baltimoresun.com/2013-01-21/news/bs-ed-political-capital-20130121_1_political-system-party-support-public-opinion>

Barack Obama's election in 2008 seemed to signal a change. Mr. Obama's popular vote majority was the largest for any president since 1988, and he was the first Democrat to clear the 50 percent mark since Lyndon Johnson. The president initially enjoyed strong public approval and, with a Democratic Congress, was able to produce an impressive string of legislative accomplishments during his first year and early into his second, capped by enactment of the Patient Protection and Affordable Care Act. But with each legislative battle and success, his political capital waned. His impressive successes with Congress in 2009 and 2010 were accompanied by a shift in the public mood against him, evident in the rise of the tea party movement, the collapse in his approval rating, and the large GOP gains in the 2010 elections, which brought a return to divided government.