# 1NC

### 1

#### Restrictions must legally mandate less production, not just regulate it

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.

#### The decreases regulations, not restrictions. Voter for limits because they manipulate the terminology to expand the hardest part of the resolution to debate

Sinha 6

<http://www.indiankanoon.org/doc/437310/>

Supreme Court of India Union Of India & Ors vs M/S. Asian Food Industries on 7 November, 2006 Author: S.B. Sinha Bench: S Sinha, Mark, E Katju CASE NO.: Writ Petition (civil) 4695 of 2006 PETITIONER: Union of India & Ors. RESPONDENT: M/s. Asian Food Industries DATE OF JUDGMENT: 07/11/2006 BENCH: S.B. Sinha & Markandey Katju JUDGMENT: J U D G M E N T [Arising out of S.L.P. (Civil) No. 17008 of 2006] WITH CIVIL APPEAL NO. 4696 OF 2006 [Arising out of S.L.P. (Civil) No. 17558 of 2006] S.B. SINHA, J :

We may, however, notice that this Court in State of U.P. and Others v. M/s. Hindustan Aluminium Corpn. and others [AIR 1979 SC 1459] stated the law thus:

"It appears that a distinction between regulation and restriction or prohibition has always been drawn, ever since Municipal Corporation of the City of Toronto v. Virgo. Regulation promotes the freedom or the facility which is required to be regulated in the interest of all concerned, whereas prohibition obstructs or shuts off, or denies it to those to whom it is applied. The Oxford English Dictionary does not define regulate to include prohibition so that if it had been the intention to prohibit the supply, distribution, consumption or use of energy, the legislature would not have contented itself with the use of the word regulating without using the word prohibiting or some such word, to bring out that effect."

#### Precision—restrictions must be a distinct term for debate to occur

Eric Heinze (Senior Lecturer in Law, University of London, Queen Mary. He has held fellowships from the Fulbright Foundation and the French and German governments. He teaches Legal Theory, Constitutional Law, Human Rights and Public International Law. JD Harvard) 2003 “The Logic of Liberal Rights A study in the formal analysis of legal discourse” http://mey.homelinux.org/companions/Eric%20Heinze/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20%28839%29/The%20Logic%20of%20Liberal%20Rights\_%20A%20Study%20in%20%20-%20Eric%20Heinze.pdf

Variety of ‘restrictions’

The term ‘restriction’, defined so broadly, embraces any number of familiar concepts: ‘deprivation’, ‘denial’, ‘encroachment’, ‘incursion’, ‘infringement’, ‘interference’, ‘limitation’, ‘regulation’. Those terms commonly comport differences in meaning or nuance, and are not all interchangeable in standard legal usage. For example, a ‘deprivation’ may be distinguished from a ‘limitation’ or ‘regulation’ in order to denote a full denial of a right (e.g. where private property is wholly appropriated by the state 16 Agents without compensation) as opposed to a partial constraint (e.g. where discrete restrictions are imposed on the use of property which nonetheless remains profitably usable). Similarly, distinctions between acts and omissions can leave the blanket term ‘restriction’ sounding inapposite when applied to an omission: if a state is accused of not doing enough to give effect to a right, we would not colloquially refer to such inaction as a ‘restriction’. Moreover, in a case of extreme abuse, such as extrajudicial killing or torture, it might sound banal to speak merely of a ‘restriction’ on the corresponding right. However, the term ‘restriction’ will be used to include all of those circumstances, in so far as they all comport a purpose or effect of extinguishing or diminishing the right-seeker’s enjoyment of an asserted right. (The only significant distinction which will be drawn will be between that concept of ‘restriction’ and the concept of ‘breach’ or ‘violation’. The terms ‘breach’ or ‘violation’ will be used to denote a judicial determination about the legality of the restriction.6) Such an axiom may seem unwelcome, in so far as it obliterates subtleties which one would have thought to be useful in law. It must be stressed that we are seeking to eliminate that variety of terms not for all purposes, but only for the very narrow purposes of a formal model, for which any distinctions among them are irrelevant.

### 2

#### Passive solar isn’t topical—solar power is distinct from solar energy, which is much broader and explodes limits

**Sklar, ‘7** founder and president of The Stella Group, Ltd., in Washington, DC, is the Chair of the Steering Committee of the Sustainable Energy Coalition and serves on the Boards of Directors of the Sustainable Buildings Industry Council, the Business Council for Sustainable Energy, and the Renewable Energy Policy Project. The Stella Group, Ltd., a strategic marketing and policy firm for clean distributed energy users and companies using renewable energy (Scott Sklar, 23 October 2007, “What’s the Difference Between Solar Energy and Solar Power?” http://www.renewableenergyworld.com/rea/news/article/2007/10/whats-the-difference-between-solar-energy-and-solar-power-50358)//CC

Lee, this is a question I get often, and believe it is worth addressing. Solar "power" usually means converting the sun's rays (photons) to electricity. The solar technologies could be photovoltaics, or the various concentrating thermal technologies: solar troughs, solar dish/engines, and solar power towers. Solar "energy" is a more generic term, meaning any technology that converts the sun's energy into a form of energy—so that includes the aforementioned solar power technologies, but also solar thermal for water heating, space heating and cooling, and industrial process heat. Solar energy includes solar daylighting and even passive solar that uses building orientation, design and materials to heat and cool buildings. Now in the early 1980's, I was Political Director of the Solar Lobby, formed by the big nine national environmental groups, that embraced all solar technologies—which we viewed as wind, hydropower, and biomass, along with the long list of traditional solar conversion technologies. The thesis, which is correct, is that the sun contributes to growing plants, wind regimes, and evaporation and rain (hydropower), so that all the renewables are part of the solar family. Now, of course, most would argue that geothermal, and tidal and wave (effected by the gravitational force of the moon) are not solar, but we included these technologies as well.

#### Limits outweigh—they expand the topic to include any technology tangentially related to solar which inhibits stable topic research and explodes advantage diversity.

#### Also hurts ground—core strategies are predicated on alternative means of generating electricity, including ancillary aspects of solar generation makes it impossible to generate offense.

### 3

#### The United States Supreme Court should rule that compliance orders from federal enforcement agencies regarding restrictions on passive solar construction in Section 8 housing are unconstitutional on grounds of equal protection.

#### This solves and competes – it doesn’t ‘reduce’ a legal restriction – it just makes it unenforceable

William **Treanor** (associate professor of law at Fordham University) **and** Gene **Sperling** (Deputy assistant to the president for economic policy University of Minnesota) **1993** “Prospective overruling and the revival of Unconstitutional statutes” JSTOR

Unlike the Supreme Court, several state courts have explicitly addressed the revival issue. The relevant state court cases have concerned the specific issue of whether a statute that has been held unconstitutional is revived when the invalidating decision is over- turned.42 With one exception, they have concluded that such statutes are immediately enforceable. The most noted instance in which the revival issue was resolved by a court involved the District of Columbia minimum wage statute pro- nounced unconstitutional in Adkins. After the Court reversed Adkins in West Coast Hotel, President Roosevelt asked Attorney General HomerCummings for an opinion on the status of the District of Columbia's statute. The Attorney General responded, The decisions are practically in accord in holding that the courts have no power to repeal or abolish a statute, and that notwithstanding a decision holding it unconstitutional a statute continues to remain on the statute books; and that if a stat- ute be declared unconstitutional and the decision so declaring it be subsequently overruled the statute will then be held valid from the date it became effective.43 Enforcement of the statute followed without congressional action.44 When this enforcement was challenged, the Municipal Court of Appeals for the District of Columbia inJawish v. Morlet 45 held that the decision in West Coast Hotel had had the effect of making the statute enforceable. The court observed that previous opinions addressing the revival issue proceed on the principle that a statute declared unconstitutional is void in the sense that it is inoperative or unenforceable, but not void in the sense that it is repealed or abolished; that so long as the decision stands the statute is dormant but not dead; and that if the decision is reversed the statute is valid from its first effective date.46 The court declared this precedent sound since the cases were "in ac- cord with the principle 'that a decision of a court of appellate jurisdic- tion overruling a former decision is retrospective in its operation, and the effect is not that the former decision is bad law but that it never was the law.' "47 Adkins was thus, and had always been, a nullity. The court acknowledged that, after Adkins, it had been thought that the District of Columbia's minimum wage statute was unconstitutional. As the court put it, "'[J]ust about everybody was fooled.' "48 Nonetheless, the court's view was that since the minimum wage law had always been valid, although for a period judicially unenforceable, there was no need to reenact it.49 Almost all other courts that have addressed the issue of whether a statute that has been found unconstitutional can be revived have reached the same result as theJawish court, using a similar formalisticanalysis.50 The sole decision in which a court adopted the nonrevival position is Jefferson v. Jeferson,51 a poorly reasoned decision of the Louisiana Supreme Court. The plaintiff in Jeferson sought child sup- port and maintenance from her husband. She prevailed at the trial level; he filed his notice of appeal one day after the end of the filing period established by the Louisiana Uniform Rules of the Court of Ap- peals. The Court of Appeals rejected his appeal as untimely, even though the Louisiana Supreme Court had previously found that the ap- plicable section of the Uniform Rules violated the state constitution. One of Ms. Jefferson's arguments before the state Supreme Court was that that court's previous ruling had been erroneous and that the rules should therefore be revived. In rejecting this claim and in finding for the husband, the Court stated: Since we have declared the uniform court rule partially unconstitutional, it appears to be somewhat dubious that we have the right to reconsider this ruling in the instant case as counsel for the respondent judges urges us to do. For a rule of court, like a statute, has the force and effect of law and, when a law is stricken as void, it no longer has existence as law; the law cannot be resurrected thereafter by a judicial de- cree changing the final judgment of unconstitutionality to con- stitutionality as this would constitute a reenactment of the law by the Court-an assumption of legislative power not dele- gated to it by the Constitution.52 The Louisiana Court thus took a mechanical approach to the revival question. According to its rationale, when a statute is found unconstitutional, it is judicially determined never to have existed. Revival there- fore entails judicial legislation and thereby violates constitutionally mandated separation of powers: because the initial legislative passage of the bill has no legitimacy, the bill's force is considered to be purely a creature of judicial decision-making. Jefferson has little analytic appeal. Its view of the separation of pow- ers doctrine is too simplistic. Contrary to the Jeferson rationale, a "re- vived" law is not the pure product of judicial decision-making. It is, instead, a law that once gained the support of a legislature and that has never been legislatively repealed. Its legitimacy rests on its initial legis- lative authorization. Moreover, the view that a statute that has been found unconstitutional should be treated as if it never existed may have had some support in the early case law, but it has been clearly rejected by the Supreme Court. Instead of treating all statutes that it has found unconstitutional as if they had never existed, the Court has recognized a range of circumstances in which people who rely on an overturned decision are protected. Indeed, as will be developed, the doctrine of prospective overruling evolved to shield from harm those who relied on subsequently overruled judicial decisions.53 In short, the one case in which there was a holding that a statute did not revive does not offer a convincing rationale for nonrevival.

**Equal protection ruling solves racism and oppression – exclusive Court ruling reverses signal of a Supreme Court out of touch with equality and sets standards for solving racism**

**Miller 6** (Jeremy M. Miller, Professor of Law at Chapman University School of Law. “The Potential for an Equal Protection Revolution”, Lexis)

VI. Conclusion  The purpose of this paper is to provide a guide for the application of the Equal Protection Clause to individual rights issues in the context of criminal procedure. Although Lawrence v. Texas revealed the Due Process Clause's tired impact on such issues, it has consistently functioned as the "norm" for challenging a law or act as a constitutional right violation of a criminal defendant. However, this paper has revealed that it is by no means the only approach. Clearly, equal protection claims have been alleged and are increasingly, though unevenly, accepted by the Supreme Court. In spite of its pitted legacy, this constitutional provision is a crucial tool for advocating and vindicating the rights of the accused and convicted. The advantage of the use of this clause is that a High Court predisposed to originalism, [n342](http://www.lexisnexis.com.proxy.lib.umich.edu/us/lnacademic/frame.do?tokenKey=rsh-20.26441.19863525274&target=results_DocumentContent&reloadEntirePage=true&rand=1246128531039&returnToKey=20_T6857277496&parent=docview" \l "n342) that is, the original intent of the Framers, need not stretch for meaning that all Americans are required to be given the equal protection of our land and our law, priding itself on fairness and liberty. The three-tiered approach of scrutiny simply answers the question by unprincipled construct. The classification will usually determine the result. A mandate of equal protection of the law does not need such an obfuscated and apparently disingenuous mode of analysis. All equal protection questions need "strict scrutiny" (or words/concepts to that effect) analysis. [n343](http://www.lexisnexis.com.proxy.lib.umich.edu/us/lnacademic/frame.do?tokenKey=rsh-20.26441.19863525274&target=results_DocumentContent&reloadEntirePage=true&rand=1246128531039&returnToKey=20_T6857277496&parent=docview" \l "n343) The contradictory, non-use, inconsistent use, and over-ruling of equal protection cases, paradoxically, gives the High Court a near blank, but principled, slate to help solve some of the terribly pressing problems of today. That other courts have often missed the mark with equal protection analysis allows the present Court the freedom it needs, and rightfully has, to be arbiter of the United States Constitution. Two Hundred and Thirty Years ago, our Declaration of Independence averred that all are created equal. [n344](http://www.lexisnexis.com.proxy.lib.umich.edu/us/lnacademic/frame.do?tokenKey=rsh-20.26441.19863525274&target=results_DocumentContent&reloadEntirePage=true&rand=1246128531039&returnToKey=20_T6857277496&parent=docview" \l "n344) As we enter into the Twenty-First Century, our country is terribly and shamefully divided by race, ethnicity, gender, religion, sexual orientation, body type, and other forms of prejudice. We have had one Civil War based on non-equal protection. Not only is such ethically and axiomatically evil; pragmatically, this discrimination threatens to destroy the Republic. In beginning to all live together in peace at home, the Equal Protection Clause is the principled [n345](http://www.lexisnexis.com.proxy.lib.umich.edu/us/lnacademic/frame.do?tokenKey=rsh-20.26441.19863525274&target=results_DocumentContent&reloadEntirePage=true&rand=1246128531039&returnToKey=20_T6857277496&parent=docview" \l "n345) legal tool to begin to eradicate the growing tensions. In using the clause, the transparent outcome-determinative classification standards should be abandoned. Either one who is similarly situated was treated by the government dissimilarly, or not. It amazes this author that a test that classifies and then reaches an answer without mature and honest legal analysis has lasted to this day. The United States of America must begin to set an example to a world which is tragically best characterized as one divided and at war based on race, religion, ethnicity - and a world that is armed to fight these issues. Charity and clarity must begin at home. The mechanism is there. There is a principled tabula rasa waiting to enliven our law.

### 4

#### Solar power is a Trojan horse for corporatization of tech—masks consumption while providing an excuse to not expand real infrastructure needs

**Glover et al 2006** – \*Policy Fellow at the Center for Energy and Environmental Policy, University of Delaware, \*\*Directs the Urban Studies and Wheaton in Chicago programs, selected to the Chicago Council on Global Affairs Emerging Leaders Program for 2011-2013, \*\*\*2007 Nobel Peace Prize winner, Distinguished Professor of Energy & Climate Policy at the University of Delaware, Head of the Center for Energy and Environmental Policy (Leigh Glover, Noah Toly, John Byrne, “Energy as a Social Project: Recovering a Discourse”, in “Transforming Power: Energy, Environment, and Society in Conflict”, p. 1-32, http://www.ceep.udel.edu/energy/publications/2006\_es\_energy\_as\_a\_social\_project.pdf, WEA)

The Sustainable Energy Quest¶ The problems of the conventional energy order have led some to regard¶ reinforcement of the status quo as folly and to instead champion sustainable¶ energy strategies based upon non-conventional sources and a more intelligent ideology of managed relations between energy, environment, and society consonant with environmental integrity. This regime challenger seeks to¶ evolve in the social context that produced the conventional energy regime,¶ yet proposes to fundamentally change its relationship to the environment (at¶ least, this is the hope). Technologies such as wind and photovoltaic electricity are purported to offer building blocks for a transition to a future in which¶ ills plaguing modernity and unsolved by the conventional energy regime¶ can be overcome (Lovins, 1979; Hawken et al., 2000; Scheer, 2002; Rifkin,¶ 2003; World Bank, 2004b).¶ While technical developments always include social, material, ecological, intellectual, and moral infrastructures (Winner, 1977: 54 - 58; Toly, 2005),¶ and may, therefore, be key to promoting fundamentally different development pathways, it is also possible that technologies, even environmentally¶ benign ones, will be appropriated by social forces that predate them and,¶ thereby, can be thwarted in the fulfillment of social promises attached to the¶ strategy. Indeed, if unaccompanied by reflection upon the social conditions¶ in which the current energy regime thrives, the transition to a renewable¶ energy regime may usher in very few social benefits and little, if any, political¶ and economic transformation. This is the concern that guides our analysis¶ (below) of the sustainable energy movement.¶ At least since the 1970s when Amory Lovins (1979) famously posed the¶ choice between “hard” and “soft” energy paths, sustainable energy strategies¶ have been offered to challenge the prevailing regime. Sometimes the promise¶ was of no more than “alternative” and “least cost” energy (Energy Policy¶ Project of the Ford Foundation, 1974a, 1974b; O’Toole, 1978; Sant, 1979),¶ but adjectives such as “appropriate,” “natural,” “renewable,” “equitable,”¶ and even “democratic” have also been envisioned (Institute for Local SelfReliance, 2005; Scheer, 2002: 34).¶ 16¶ The need to depart from the past, especially in light of the oil crises of the 1970s and the energy-rooted threat of¶ climate change that has beset policy debate since the late 1980s, united¶ disparate efforts to recast and reconceive our energy future.¶ Partly, early criticisms of the mainstream were reflective of a broader social¶ agenda that drew upon, among other things, the anti-war and anti-corporate¶ politics of the 1960s. It was easy, for example, to connect the modern energy¶ regime to military conflicts of the period and to superpower politics; and it¶ was even easier to ally the mainstream’s promotion of nuclear power to the¶ objectives of the Nuclear Club. With evidence of profiteering by the oil¶ majors in the wake of the 1973-1974 OPEC embargo, connecting the energy¶ regime with the expanding power of multinational capital was, likewise, not¶ difficult. Early sustainable energy strategies opposed these alliances, offering promises of significant political, as well as technological, change.¶ However, in the thirty years that the sustainable energy movement has¶ aspired to change the conventional regime, its social commitments and politics have become muddled. A telling sign of this circumstance is the shifted¶ focus from energy politics to economics. To illustrate, in the celebrated work¶ of one of the movement’s early architects, subtitles to volumes included¶ “breaking the nuclear link” (Amory Lovins’ Energy/War, 1981) and “toward¶ a durable peace” (Lovins’ Soft Energy Paths, 1979). These publications offered poignant challenges to the modern order and energy’s role in maintaining that order.¶ Today, however, the bestsellers of the movement chart a course toward¶ “natural capitalism” (Hawken et al., 2000), a strategy that anticipates synergies between soft path technologies and market governance of energy-environment-society relations. Indeed, a major sustainable energy think tank has¶ reached the conclusion that “small is profitable” (Lovins et al., 2002) in¶ energy matters and argues that the soft path is consistent with “economic¶ rationalism.” Understandably, a movement that sought basic change for a¶ third of a century has found the need to adapt its arguments and strategies to¶ the realities of political and economic power. Without adaptation, the conventional energy regime could have ignored soft path policy interventions¶ like demand-side management, integrated resource planning, public benefits¶ charges, and renewable energy portfolio standards (see Lovins and Gadgil,¶ 1991; Sawin, 2004), all of which have caused an undeniable degree of decentralization in energy-society relations. In this vein, it is clear that sustainability¶ proponents must find ways to speak the language and communicate in the¶ logic of economic rationalism if they are to avoid being dismissed. We do not¶ fault the sustainable energy camp for being strategic. Rather, the concern is¶ whether victories in the everyday of incremental politics have been balanced¶ by attention to the broader agenda of systemic change and the ideas needed¶ to define new directions.¶ A measure of the sustainable energy initiative’s strategic success is the¶ growing acceptance of its vision by past adversaries. Thus, Small is Profitable was named ‘Book of the Year’ in 2002 by The Economist, an award¶ unlikely to have been bestowed upon any of Lovins’ earlier works. As acceptance has been won, it is clear that sustainable energy advocates remain¶ suspicious of the oil majors, coal interests, and the Nuclear Club. But an¶ earlier grounding of these suspicions in anti-war and anti-corporate politics¶ appears to have been superseded by one that believes the global economy¶ can serve a sustainability interest if the ‘raison de market’ wins the energy¶ policy debate. Thus, it has been suggested that society can turn “more profit¶ with less carbon,” by “harnessing corporate power to heal the planet” (Lovins,¶ 2005; L. H. Lovins and A. B. Lovins, 2000). Similarly, Hermann Scheer (2002:¶ 323) avers: “The fundamental problem with today’s global economy is not¶ globalization per se, but that this globalization is not based on the sun—the¶ only global force that is equally available to all and whose bounty is so great¶ that it need never be fully tapped.” However, it is not obvious that market¶ economics and globalization can be counted upon to deliver the soft path¶ (see e.g. Nakajima and Vandenberg, 2005). More problematic, as discussed¶ below, the emerging soft path may fall well short of a socially or ecologically¶ transforming event if strategic victories and rhetorics that celebrate them¶ overshadow systemic critiques of energy-society relations and the corresponding need to align the sustainable energy initiative with social movements to¶ address a comprehensive agenda of change.¶ Catching the Wind¶ To date, the greatest success in ‘real’ green energy development is the¶ spread of wind power. From a miniscule 1,930 MW in 1990 to more than¶ 47,317 MW in 2005, wind power has come of age. Especially noteworthy is¶ the rapid growth of wind power in Denmark (35 percent per year since 1997),¶ Spain (30 percent per year since 1997), and Germany (an astonishing 68¶ percent per year since 2000), where policies have caused this source to threaten¶ the hegemony of fossil fuels and nuclear energy. Wind now generates more¶ than 20 percent of Denmark’s electricity and the country is the world leader in¶ turbine manufacture. And as the Danes have demonstrated, offshore wind has¶ the potential to skirt some of the land-use conflicts that have sometimes beset¶ renewable energy alternatives. Indeed, some claim that offshore wind alone¶ might produce all of Europe’s residential electricity (Brown, 2004). National¶ energy strategists and environmental movements in and beyond Europe have¶ recognized the achievements of the Danes, Spaniards, and Germans with initiatives designed to imitate their success.¶ What are the characteristics of this success? One envied feature is the¶ remarkable decline in the price of wind-generated electricity, from $0.46 per¶ kWh in 1980 to $0.03 to $0.07 per kWh today (Sawin, 2004), very close to¶ conventionally-fueled utility generating costs in many countries, even before environmental impacts are included. Jubilant over wind’s winning market performance, advocates of sustainable energy foresee a new era that is¶ ecologically much greener and, yet, in which electricity remains (comparatively) cheap. Lester Brown (2003: 159) notes that wind satisfies seemingly¶ equally weighted criteria of environmental benefit, social gain, and economic efficiency:¶ Wind is...clean. Wind energy does not produce sulfur dioxide emissions or nitrous¶ oxides to cause acid rain. Nor are there any emissions of health-threatening mercury¶ that come from coal-fired power plants. No mountains are leveled, no streams are¶ polluted, and there are no deaths from black lung disease. Wind does not disrupt the¶ earth’s climate...[I]t is inexhaustible...[and] cheap.¶ This would certainly satisfy the canon of economic rationalism.¶ It is also consistent with the ideology of modern consumerism. Its politics¶ bestow sovereignty on consumers not unlike the formula of Pareto optimality,¶ a situation in which additional consumption of a good or service is warranted¶ until it cannot improve the circumstance of one person (or group) without¶ decreasing the welfare of another person (or group).¶ 17¶ How would one know¶ “better off” from “worse off” in the wind-rich sustainable energy era? Interestingly, proponents seem to apply a logic that leaves valuation of “better” and¶ “worse” devoid of explicit content. In a manner reminiscent of modern economic thinking, cheap-and-green enthusiasts appear willing to set wind to¶ the task of making “whatever”—whether that is the manufacture of low-cost¶ teeth whitening toothpaste or lower cost SUVs. In economic accounting, all¶ of these applications potentially make some in society “better off” (if one¶ accepts that economic growth and higher incomes are signs of improvement).¶ Possible detrimental side effects or externalities (an economic term for potential harm) could be rehabilitated by the possession of more purchasing power,¶ which could enable society to invent environmentally friendly toothpaste¶ and make affordable, energy-efficient SUVs. Sustainable energy in this construct cooperates in the abstraction of consumption and production. Consumption-of-what, -by-whom, and -for-what-purpose, and, relatedly,¶ production-of-what, -by-whom, and -for-what-purpose are not issues. The¶ construct altogether ignores the possibility that “more-is-better” consumption-production relations may actually reinforce middle class ideology and¶ capitalist political economy, as well as contribute to environmental crises¶ such as climate change. In the celebration of its coming market victory, the¶ cheap-and-green wind version of sustainable energy development may not¶ readily distinguish the economic/class underpinnings of its victory from those¶ of the conventional energy regime.¶ Wind enthusiasts also appear to be largely untroubled by trends toward¶ larger and larger turbines and farms, the necessity of more exotic materials to¶ achieve results, and the advancing complications of catching the wind. There¶ is nothing new about these sorts of trends in the modern period. The trajectory of change in a myriad of human activities follows this pattern. Nor is a¶ critique per se intended in an observation of this trend. Rather, the question¶ we wish to raise is whether another feature in this pattern will likewise be¶ replicated—namely, a “technological mystique” (Bazin, 1986) in which social life finds its inspiration and hope in technical acumen and searches for¶ fulfillment in the ideals of technique (Mumford, 1934; Ellul, 1964; Marcuse,¶ 1964; Winner, 1977, 1986; Vanderburg, 2005).¶ This prospect is not a distant one, as a popular magazine recently illustrated. In a special section devoted to thinking “After Oil,” National Geographic approvingly compared the latest wind technology to a well-known¶ monument, the Statue of Liberty, and noted that the new machines tower¶ more than 400 feet above this symbol (Parfit, 2005: 15 - 16). It was not hard to¶ extrapolate from the story the message of Big Wind’s liberatory potential.¶ Popular Science also commended new wind systems as technological marvels, repeating the theme that, with its elevation in height and complexity¶ lending the technology greater status, wind can now be taken seriously by¶ scientists and engineers (Tompkins, 2005). A recent issue of The Economist¶ (2005) included an article on the wonder of electricity generated by an artificial tornado in which wind is technologically spun to high velocities in a¶ building equipped with a giant turbine to convert the energy into electricity.¶ Indeed, wind is being contemplated as a rival able to serve society by the¶ sheer technical prowess that has often been a defining characteristic of modern energy systems.¶ Obviously, wind energy has a long way to go before it can claim to have¶ dethroned conventional energy’s “technological cathedrals” (Weinberg,¶ 1985). But its mission seems largely to supplant other spectacular methods of¶ generating electricity with its own. The politics supporting its rapid rise¶ express no qualms about endorsing the inevitability of its victories on tech-¶ nical grounds. In fact, Big Wind appears to seek monumental status in the¶ psyche of ecologically modern society. A recent alliance of the American¶ Wind Energy Association and the U.S. electric utility industry to champion¶ national (subsidized) investment in higher voltage transmission lines (to¶ deliver green-and-cheap electricity), illustrates the desire of Big Wind to¶ plug into Giant Power’s hardware and, correspondingly, its ideology (see¶ American Wind Energy Association, 2005, supporting “Transmission Infrastructure Modernization”). The transformative features of such a politics are¶ unclear. Indeed, wind power—if it can continue to be harvested by everlarger machines—may penetrate the conventional energy order so successfully that it will diffuse, without perceptible disruption, to the regime. The air¶ will be cleaner but the source of this achievement will be duly noted: science¶ will have triumphed still again in wresting from stingy nature the resources¶ that a wealthy life has grown to expect. Social transformation to achieve¶ sustainability may actually be unnecessary by this political view of things, as¶ middle-class existence is assured via clean, low-cost and easy-to-plug-in wind¶ power.¶ **Small-is-Beautiful Solar18**¶The second fastest growing renewable energy option—solar electric¶ power—is proving more difficult to plug in. Despite steady declines in the¶ cost per kWh of energy generated by photovoltaic (PV) cells, this alternative¶ remains a pricey solution by conventional standards. Moreover, the technology does not appear to have significant scale economies, partly because the¶ efficiency of PV cannot be improved by increasing the size of the device or its¶ application. That is, unit energy costs of large installations of many PV arrays¶ do not deviate appreciably from those for small installations comprised of¶ fewer arrays. Instead, the technology seems to follow a modular economic¶ logic in which unit costs neither grow nor decline with scale. Some have¶ praised this attribute, suggesting that PV’s modularity means there are no¶ technical or economic reasons for scaling its application to iconic levels that¶ conventional power plants now represent, potentiating a more robust system¶ of distributed generation and delivering clean energy to previously¶ marginalized populations (Martinot and Reiche, 2000; Martinot et al., 2002).¶ Small-Is-Beautiful Solar is attributed with social empowerment potential¶ by Vaitheeswaran (2003: 314) who notes that PV (and other small scale electricity generation technologies) can overcome social barriers through a “collision of clean energy, microfinance, and community empowerment,” three¶ properties that may lift the burden of poverty and promote democratic social¶ relations. “Micropower,” he argues (2003: 314), “is beginning to join forces¶ with village power.” Thus, it would seem that a Solar Society might depend¶ upon a different politics than Big Wind in displacing a fossil and nuclear¶ energy driven world economy.¶ Perhaps because PV has, so far, found wider social usage in rural contexts¶ where poverty (as modernly conceived) persists, discussions, in fact, crop up¶ about solar’s social project. For example, arguments have formed around the¶ gender interests of PV, at least as it has been diffused in rural life to date (see,¶ for example, Allerdice and Rogers, 2000). And criticism has surfaced about¶ PV’s ‘capture’ by the state as a tool to quiet, if not mollify, the rural poor¶ (Okubo, 2005: 49 - 58). There has even been a charge that PV and other¶ renewables are being used by multilateral organizations such as the World¶ Bank to stall Southern development. By imposing a fragmented patchwork¶ of tiny, expensive solar generators on, for example, the African rural landscape, instead of accumulating capital in an industrial energy infrastructure,¶ the World Bank and other actors are accused of being unresponsive to the¶ rapid growth needs of the South (Davidson and Sokona, 2002; Karekezi and¶ Kithyoma, 2002). A related challenge of PV’s class interests has raised questions about the technology’s multinational corporate owners and offered¶ doubts about successful indigenization of solar cell manufacturing (AbleThomas, 1995; Guru, 2002: 27; Bio-Energy Association of Sri Lanka, 2004:¶ 20). Regardless of one’s position on these debates, it is refreshing to at least¶ see solar energy’s possible political and economic interests considered.¶ But PV’s advocates have not embraced the opportunities created by its¶ rural examiners to seriously investigate the political economy of solar energy. The bulk of solar research addresses engineering problems, with a modest social inquiry focused on issues of technological transition in which solar¶ electricity applications are to find their way into use with as little social¶ resistance or challenge as possible. A green politics that is largely unscarred¶ by conflict is, and for a long time has been, anticipated to characterize an¶ emergent Solar Society (Henderson, 1988; Ikeda and Henderson, 2004). Likewise, solar economics is thought to be consensual as non-renewable options¶ become too expensive and PV cells, by comparison, too cheap to be refused¶ their logical role (see, for example, Henderson, 1995, 1996; Rifkin, 2003). It¶ seems that a solarized social order is inevitable for its proponents, with technological breakthrough and economic cost the principal determinants of when¶ it will arrive.¶ In this regard, ironically, Small-is-Beautiful Solar shares with Big Wind ¶ the aspiration to re-order the energy regime without changing society. Despite modern society’s technological, economic, and political addiction to¶ large-scale, cheap energy systems that solar energy cannot mimic, most PV¶ proponents hope to revolutionize the technological foundation of modernity, without disturbing its social base. A new professional cadre of solar¶ architects and engineers are exhorted to find innovative ways of embedding¶ PV technology in the skin of buildings (Strong, 1999; Benemann, Chehab,¶ and Schaar-Gabriel, 2001), while transportation engineers and urban planners are to coordinate in launching “smart growth” communities where vehicles are powered by hydrogen derived from PV-powered electrolysis to¶ move about in communities optimized for “location efficiency” (Ogden, 1999;¶ Holtzclaw et al., 2002). The wildly oversized ecological footprint of urban¶ societies (Rees and Wackernagel, 1996) is unquestioned as PV decorates its¶ structure.¶ These tools for erecting a Solar Society intend to halt anthropogenic¶ changes to the chemistry of the atmosphere, rain, and soil mantle while enabling unlimited economic growth. In the Solar Society of tomorrow, we will¶ make what we want, in the amounts we desire, without worry, because all of its¶ energy is derived from the benign, renewable radiation supplied by our galaxy’s¶ sun. Compared to Big Wind, PV may cost more but it promises to deliver an¶ equivalent social result (minus the avian and landscape threats of the former)¶ and, just possibly, with a technical elegance that surpasses the clunky¶ mechanicalness of turbines propelled by wind. In this respect, Solar Society¶ makes its peace with modernity by leaving undisturbed the latter’s cornucopian¶ dreams¶ 19¶ and, likewise, poses no serious challenge to the social and political¶ structures of the modern era.¶ At this precise point, inequality and conflict can only be conceived in¶ Solar Society as the results of willful meanness and greed. While the solar¶ variety of technological politics guiding society may be relatively¶ minimalist—no towering new monuments or spectacular devices are¶ planned—it would be no less committed to the ideals of technique in shaping¶ social experience and its self-assessment. Similarly, its economics would¶ warmly embrace a form of consumptive capitalism, although with cleaner¶ inputs (and possibly throughputs) than before.¶ While the discussion here of sustainable energy advocacy has concentrated on its wind- and solar-animated versions, we believe that strategies¶ anticipating significant roles for geothermal, biomass, micro-hydro, and hydrogen harvested from factories fueled by renewables anticipate variants of¶ the social narratives depicted for the two currently most prominent renewable¶ energy options. The aim of producing more with advancing ecological efficiency in order to consume more with equally advancing consumerist satisfaction underpins the sustainable energy future in a way that would seamlessly¶ tie it to the modernization project.¶ 20

#### The impact is extinction—focus on production and technology in the neoliberal frame generates crises and precludes other orientations

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As Marilyn Waring noted twenty years ago, under this system, when there is an ¶ environmental catastrophe, like the Exxon Valdez oil spill in Alaska, or the current BP oil ¶ spill in the Gulf, companies make an enormous profit cleaning up, or at least professing ¶ to do so. GDP goes up. If someone is sick, if they die a long, drawn-out death from ¶ cancer, there is profit to be made. There is no money to be made in human and ecological ¶ health and well-being. If communities grow their own food, the global food market ¶ significantly decreases; if people walk rather than drive, the oil and car companies don’t ¶ make money. If education is free, who benefits? Maybe most people, and the society at ¶ large, maybe even the environment, but not necessarily the shareholders. Therefore, it is ¶ much more economically efficient to let the market shape education. Today students take ¶ out larger and larger loans to buy more expensive books, to get less education engendered ¶ by fewer teachers. This is capitalist efficiency. The surplus is efficiently transferred from ¶ one segment of the population to another, those at the top. The same goes for letting the ¶ market shape energy policy. Those arguing today for market intervention in the climate ¶ crisis often fail to mention that it is absolutely already the market shaping energy policy. ¶ This is precisely the problem. It is very efficient for the market to extract oil at bargain ¶ prices from countries without militaries to stop them. It is very efficient, in terms of ¶ profit, to have the most vulnerable in society pay the costs of energy production, and to ¶ keep polluting, all the while terrifying people that new energy developments might be ¶ their only chance of economic survival. Nevermind where the real money goes and what ¶ happens with the boom goes bust.

The current version of capitalist ideology, which absorbs energy scholars (and ¶ even environmental socialists) often unwittingly, was consciously shaped to co-opt the ¶ language of social movements seeking freedom from the yolk of capitalism and ¶ imperialism. It is no surprise that the market would co-opt green rhetoric today. ¶ Economists having the greatest ideological influence on political debates and social ¶ science today, the architects of neoliberal ideology, have sought to re-write the history of ¶ capitalist development as “the constitution of liberty,” and the basis of free society ¶ (Hayek 1960; Friedman 1962; Van Horn, Mirowski, and Stapleford, eds. 2011). There ¶ can be no acknowledgement of slavery, racism, sexism, or ecological destruction among ¶ other issues, because all of these undermine the basic thesis neoliberal writers actively ¶ promote as political ideology. To make their argument, these writers must present ¶ capitalism as raising all boats, color-blind, gender-neutral, and free of class coercion, the ¶ globalization of which results in a “flat,” happy world, even if it is hot (Friedman 2005, ¶ 2008). Unfortunately, these ideas dominate the political sphere, and contemporary ¶ notions of organizational, community, and national development. In academia, many ¶ “theorists celebrate the alleged leveling of social differences owing to globalization”¶ (Pellow 2007, 41). The blinders imposed by this view continue to infect energy studies¶ despite the work of critical energy scholars.

Spreading capitalism thus becomes the solution for poverty associated with ¶ inequalities caused by oppression based on race, class, gender, and position in the world ¶ system, as well as the solution to environmental and energy crises. This is the basic ¶ modernization thesis. The Ecological Modernization Reader (Mol, Sonnenfeld, and ¶ Spaargaren 2009) presents these systematized views regarding the environmental crisis, ¶ which are increasingly influential in environmental sociology. York and Rosa (2003) and ¶ Foster (2012) have pointed out the empirical, theoretical, and philosophical roots of, and ¶ problems associated with this perspective as a basis for understanding ecological and ¶ social crises and solutions. But, we can expect this view to persist as long as social ¶ relations remain intact because the logic of modernization is seductive precisely because ¶ it is the logic of capitalism (Foster 1999b, 2002, 2009, 2012). The processes of ¶ capitalism, including its ideological developments, are the “background conditions” in ¶ which those integrated into the market economy live, as fish swim in water, they are the ¶ “social gravity” we might naturally feel is right, but don’t necessarily see, as much a part ¶ of our lives as the air we breathe (York and Clark 2006).

In contrast to the modernization thesis, environmental justice scholars, among ¶ other critical theorists and activists have sought to expose the mythological basis of ¶ neoliberalism and transcend the system. The work of environmental justice scholars, ¶ feminist ecologists, and ecological rift theorists, marshaling the empirical evidence, ¶ represent powerful critiques of the modernization thesis. Taken together with the insights ¶ in existing critical work on energy, they provide an alternative approach to energy that¶ belies the notion that “there is no alternative.” They share a common commitment, as ¶ social scientists and activists, to reality. Part of this reality is that “actual class and racial ¶ inequalities around the global and between North and South have only worsened in the ¶ past half-century—the same period during which the late modern state of capitalism took ¶ hold” (Pellow 2007, 41). Despite views that we live in a post-racial society, (or one ¶ where “men are finished and women are taking over” [Sohn 2011]), in fact economic ¶ globalization has “seriously undermined the gains of the civil rights and labor movement ¶ and the general antiracist struggle in the United States and undercut the global benefits of ¶ the anticolonial struggles occurring throughout the global South” (Pellow 2007, 43). ¶ Moreover, economic globalization and the intensified spread of ecological destruction ¶ “are intimately linked because the TNCs [transnational corporations] themselves were¶ the ones creating and pushing both globalization and toxins on the world markets, ¶ facilitating greater control over nations, communities, human bodies, and the natural ¶ world itself”(43).

Today, neoliberal mythology has severely hindered the development of a wider ¶ environmental justice consciousness in the broader public, and amongst activists and ¶ academics. In energy studies this view is especially pronounced in the focus on ¶ technology, carbon markets, voluntary certification schemes, and alternative energies that ¶ basically allow business to continue as usual (Foster 2002, 9-25; Rogers 2010; Holleman ¶ 2012). The critical literature emerging from what I call an energy justice perspective in ¶ ecological rift theory, systems ecology, feminist and critical human ecology, and ¶ environmental justice scholarship has drawn out the social and ecological crises of the ¶ current energy regime. This is in contrast to too many well-intentioned scholars and ¶ activists who buy into the main tenets of the modernization thesis, and thus are reluctant ¶ to break with capitalism as a system, or worse, they promote it, ignoring or ignorant of ¶ the enormous costs. This has led to the view that our task as environmentalists is getting ¶ economics to “internalize the externalities,” to bring under the pricing system the work of ¶ natural systems and human services (labor). For energy this means carbon markets and ¶ trade in other forms of pollution and raising energy prices. While it is clear that as long as ¶ we have this system, goals should include wealth redistribution and businesses ¶ shouldering the costs of their polluting practices, long-term, internalizing more of the ¶ world in the market system is a total death strategy. The logic of the market is clear. An ¶ energy justice movement, with the intention of healing the ecological rift and ¶ transcending social injustice, on the other hand has as its base the goal of “externalizing ¶ the internalities.” This is an ecological and social imperative.

Understanding the nature of the current system, Daniel Yergin’s worse-than-nothing approach to energy is the logical response of capital. Carbon markets and the ¶ new biotech boom also make sense. If the point is accumulation, sources of profit must ¶ be found at every turn and crises represent especially ripe opportunities (Klein 2007). The ¶ problem today is not capitalism’s lack of response to the climate crisis, capital was never ¶ developed as a system geared toward ecological reproduction or meeting human needs. It ¶ is a system geared toward profit at all cost and can have no rational response. The ¶ problem is that capitalism organizes so many of our productive activities in the first ¶ place. The sooner this is recognized, the sooner we can start thinking of real alternatives, ¶ and understand ourselves as subjects, not merely objects of the system, as protagonists of ¶ our own future. We can move beyond playing the passive consumers of the next product¶ capitalism has on offer, green or otherwise, packaged as a solution to energy crises. ¶ Examples like the carbon market schemes, or Daniel Yergin’s view of what constitutes ¶ energy revolution, make clear “that there’s no way we can just subcontract our ¶ environmental conscience to the new breed of green marketers” (McKibben 2010).

Energy and social inequality, the challenges of our generation

The social and ecological costs of our energy regime today are clear, though the ¶ ways these are both the result of and exacerbate social inequality and oppression are often ¶ misunderstood or ignored. While the future is unwritten, projections, if business ¶ continues as usual, indicate environmental and social catastrophe with much of the ¶ damage irreversible. Without significant social change, we should prepare for, among ¶ other depredations, increased warfare to secure energy resources to meet increased ¶ demand. The most recent British Ministry of Defence Strategic Trends report suggests ¶ that nations will increasingly use energy security “to challenge conventional ¶ interpretations on the legality of the use of force” (108). Environmentally and socially ¶ destructive energy sectors are projected to grow the next thirty years, such as nuclear ¶ energy and biofuel, while expected fossil fuel demand also goes only one way, up: ¶ Global Energy use has approximately doubled over the last ¶ 30 years and, by 2040, demand is likely to grow by more ¶ than half again. Despite concerns over climate change, ¶ demand is likely to remain positively correlated to ¶ economic growth with fossil fuels, meeting more than 80% ¶ of this increase. Urban areas will be responsible for over ¶ 75% of total demand. (Strategic Trends, 106) ¶ Even a U.S. government official has recognized publicly that “our patterns of energy use ¶ create geopolitical instability. The ways we use energy are disrupting the climate system ¶ and threaten terrifying disruptions in decades to come” (Sandalow 2009).

These realities only partially illustrate energy’s extensive contribution to what K. ¶ William Kapp (1950) referred to as capitalism’s systemic “unpaid costs.” As Anderson ¶ (1976) put it: “the growth society operates as if it had tunnel vision and nearsightedness; ¶ the accumulation of capital is pursued without regard for the side-effects or for longrange consequences, leaving to nature and the larger community these uncalculated ¶ costs” (140). Prefiguring contemporary discussions and movement framing, Anderson ¶ referred to these accumulated unpaid costs, or externalities as “the ecological debt,” the ¶ result of the exploitation of both nature and humans for the sake of economic growth at ¶ all costs (142-43), undermining the natural and social conditions of production.

As indicated previously, with energy demand expected only to increase as the ¶ economy expands, the “unpaid costs” associated with its extraction and use will continue ¶ to accumulate, but on a scale heretofore unseen. The science is clear that if we do not ¶ severely curtail energy use, we will cross critical thresholds in the biosphere’s ability to ¶ recycle waste and regulate the earth’s temperature. The consequences of crossing such ¶ planetary boundaries will be irreversible (Hansen 2009; Solomon, et al. 2009; Cullen ¶ 2010; Foster 2011).

This is a new juncture in humanity’s relation to the rest of nature. However, the ¶ costs of climate change, among other environmental crises generated by energy ¶ production and use, which is driven largely by economic growth, already are visited upon ¶ communities and other social groups in a dramatically unequal way––this we may ¶ understand as a defining feature of energy injustice. This social inequality, indeed, is a ¶ necessary feature of capitalism, making human exploitation and the assault on the ¶ environment possible, and energy injustice inevitable in the current system:

“Environmental deterioration will continue so long as there is a class system, since the ¶ profits of environmental neglect accrue primarily to one class whereas the costs are borne ¶ primarily by another” (Anderson 1976, 139). Scholars studying the ecological and social ¶ rift of capitalism, including those working on environmental racism and feminist ecology, ¶ have expanded the understanding of how these processes are gendered and racialized. ¶ Work on unequal ecological exchange amply has demonstrated that inequality between ¶ nations and regions also increases the burdens of environmental injustice. Studies from ¶ all of these perspectives have drawn out inequalities embedded in our current patterns of ¶ energy decision-making, extraction, use, and waste disposal, documenting energy ¶ injustice through various theoretical lenses.

#### Vote neg to eschew neoliberal frameworks—they’re unsustainable and insulate decisionmaking from deliberation and alternative assumptions needed to solve

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The reduction of ecological valuation through a market mechanism (or various techniques) to a ¶ mere aggregation of individual subjective valuations—which is the main premise of neoliberal ¶ ideology—may be inappropriate for complex and uncertain phenomena ridden with ¶ incommensurabilities and inter- and intra-generational distributional conflicts, such as global ¶ warming, where individual valuations will have clear implications for all living beings. Indeed, ¶ in making decisions with substantial consequences pertaining to our current life as well as our ¶ future (such as the overall growth rate, distributional trajectories, technological path, ¶ consumption habits, risk attitude [say, vis-à-vis nuclear energy]), the market response or the ¶ aggregation of individuals’ valuation through a set of available techniques (e.g., the contingent ¶ valuation) may substantially differ from what could be derived through collective deliberation ¶ and negotiation of various stakeholders including the scientific community (see, e.g., ¶ Özkaynak, Adaman and Devine, 2012). This criticism applies not only to neoliberal positions ¶ that favor the current unequal distribution of power but also to the Post-Walrasian one which ¶ although concerned with distributional issues keeps relying on individualist ontologies of ¶ calculative and calculable agency. Indeed, there is a growing theoretical and applied literature ¶ arguing that in incommensurable cases, where all relevant aspects cannot be captured in a single ¶ dimension (such as those derived from monetary cost-benefit analyses), a multi-criteria ¶ methodology would seem better placed, as it will be possible to involve not only economic but ¶ also political, moral, scientific and cultural inputs from a variety of stakeholders (see, e.g., ¶ Martinez-Alier, Munda and O’Neil, 1999; Munda, 2008). The key promise of the multicriteria decision-making tool and other similar participatory and deliberatory dispositifs is that ¶ rather than finding a “solution” to a conflictual decision, they shed light on the multifaceted¶ dimensions of the problem at hand and thus facilitate the consensus-building process from ¶ below (see, e.g., Adaman, 2012). In this regard, they constitute a formidable path to be ¶ explored as an alternative to the surreptitiously normative neoliberal governmental dispositifs, ¶ designed by experts from above, under the assumption that all actors are calculative and ¶ calculable.

The current indiscriminate application of neoliberal policies over the entire scope of the social ¶ field has brought about such political, economic, cultural and ecological devastation that any ¶ type of reform suggestion along the line to halt this process is met with much welcoming by ¶ many of us—even if some of them are still acting as if economic incentives are the only viable ¶ policy tool in town. Consider the case of carbon markets, for example, where the cap is ¶ decided either through a scientific body or through aggregating individuals’ preferences. The ¶ fact of the matter is that, far from addressing the inefficiencies that emanate from opportunistic ¶ and manipulative activities, these mechanisms are vulnerable precisely because they end up¶ soliciting manipulative, predatory, and rent-seeking behavior (because they are designed to ¶ function under such behavioral assumptions in the first place). In other words, these solutions ¶ subject a commons such as global climate into the economic logic of markets and ¶ “performatively” turn it into an object of strategic-calculative logic (MacKenzie, Muniesa and ¶ Siu, 2007; Çalışkan and Callon, 2009; MacKenzie, 2009; Çalışkan and Callon, 2010; see also ¶ Spash, 2011). Consider, furthermore, the case of price-per-bag policies. Laboratory ¶ experiments and anthropological evidence both suggest that charging a price for some activity ¶ that should in fact be treated as a duty or a commitment may well create perverse results (see, ¶ e.g., Campbell, 1998; Bowles and Hwang, 2008). Monetizing the pollution-generating activity ¶ instead of limiting the use of plastic bags (along with an awareness program) may well result in ¶ an increase of the unwanted activity. Similarly, while nationalization is the trend in areas of ¶ natural resource extraction and energy production, many continue to argue for privatization ¶ and private-public partnerships instead. Nevertheless, the problem with the private versus ¶ public dichotomy, given our reading of the contemporary state as an agent of economization, is ¶ precisely that both forms, to the extent that they are informed by the different variants of ¶ neoliberal reason, serve to isolate these critical areas from the deliberations and political ¶ demands of various stakeholders and the general public, limiting the only channels for ¶ communication available to them to the price (or price-like) mechanisms. However, perhaps ¶ most importantly, neither can be immune towards all sorts of rent-seeking activities that occur ¶ behind the close doors of the technocracy that operates in the area where state shades into ¶ market in the various forms of dispositifs.

Needless to say, economic activities that generate pollution and consume energy are not recent ¶ phenomena that are exclusive to what is now increasingly being called the neoliberal era. If ¶ anything, postwar Keynesian developmentalism was possible precisely because of the ¶ availability of cheap oil, and is responsible for an enormous amount of environmental pollution ¶ and ecological degradation (Mitchell, 2011). In this sense, it would be wrong to present ¶ neoliberal as being the only responsible mode of governmentality for the dual crises of climate ¶ change and natural resource depletion. Yet, this does not change the fact that the neoliberal ¶ reason (in its free-market and mechanism-design variations) is pushing its agenda in an era ¶ where both of these crises are reaching catastrophic levels, and it is highly questionable whether ¶ neoliberal methods of handling the environmental pollution and the extraction crisis will be¶ capable of addressing long-term concerns.

### 5

#### COUNTERPLAN: The fifty state governments should substantially increase Energy Efficiency Resource Standard programs.

#### Fifty state EERS policy solves efficiency across the board

**Glatt and Schwentker 2010** – \* Technology Delivery Team Member, Office of Industrial Technologies Program, DOE, \*\*Research Associate at BCS Incorporated (July, Sandy and Beth, DOE, “State Energy Efficiency Resource Standards Analysis”, http://www1.eere.energy.gov/manufacturing/states/pdfs/eers\_web\_final.pdf, WEA)

The effect of state energy policies in supporting energy efficiency in the residential, commercial, and industrial sectors is clear—states with strong energy efficiency policies save energy. Utilities’ citing these policies as the primary impetus for offering energy efficiency and other demand-side management programs prove the impact strong policies have. One tool in the energy efficiency policy toolbox, the state-implemented Energy Efficiency Resource Standard (EERS) program, has been instrumental in encouraging energy efficiency across the nation. EERS policies are adopted by state legislatures and implemented and managed by utilities. They require that electric and natural gas utilities offer programs and incentives to encourage their customers to reduce energy use by a specified amount each year, based on a percentage of total energy sales.

EERS policy programs typically start with modest targets that increase over time. Typical savings goals can range from the relatively modest 0.25% savings annually to the more aggressive end of the scale such as 1.25% annually, with the most successful states setting even more ambitious targets. Terms of performance standard goals can vary—some are annual while others are cumulative, but an EERS is a long-term strategy to achieve energy savings and realize the financial and environmental benefits of those savings over time. EERS programs typically offer utilities the flexibility to utilize a market-based trading system to reach their set targets, and they provide support and incentives for utilities to successfully manage their own and their customers’ energy use.

Utilities can work towards these goals by improving their own processes and distribution systems, implementing new efficiency standards in equipment and infrastructure, and encouraging their end-use customers to participate in energy-saving programs. In addition, they can purchase energy credits from over-performing utilities that have exceeded the set goals. 1

EERS is a tested policy measure that has successfully reduced energy use in multiple states. Texas was the first state to adopt an EERS in 1999. As of April 2010, 24 states had some form of EERS in place, with three others strongly considering it. Having a state EERS policy in place ensures uniform energy efficiency goals across the state. It also provides a mechanism to create support programs that lead to reduced energy use. As increasing attention is focused on cutting energy consumption and the accompanying benefits of lower energy costs and less environmental pollution, it behooves states to have the ability to track performance against goals.

If all states were to adopt their own EERS, the United States could significantly lower energy costs, reduce air pollution, mitigate climate change, and improve energy reliability. These policies also lead to job creation as utilities implement new efficiency programs and monitoring systems. Despite these benefits and successes in individual states, no federal EERS mandate or Energy Efficiency Portfolio Standard (EEPS), as they are also known, currently exists.

### 6

#### Obama will heavily invest PC in the Hagel nomination – its necessary to ensure he survives confirmation – it will be a heavy lift

Wall Street Journal January 6, 2013 “White House to Go on Offense for Hagel Pick” http://online.wsj.com/article/SB10001424127887323482504578225532918927080.html

Those officials acknowledge they have a bruising confirmation fight ahead. They also say they are confident they will prevail because Republicans ultimately won't be able to topple a former colleague, a Vietnam veteran and a two-term GOP senator from Nebraska who served on the foreign relations and intelligence committees. Mr. Obama also may announce his nominee to head the Central Intelligence Agency, a position left vacant when David Petraeus resigned last year after admitting to an affair. The two leading candidates for the post are White House counterterrorism chief John Brennan and acting CIA Director Michael Morell. Republican lawmakers on Sunday stepped up their opposition to Mr. Hagel, who initially voted for the Iraq war but grew to oppose it and who supported Mr. Obama for president in 2008. Critics also have cited Mr. Hagel's past criticisms of Israel as a basis for their opposition. Sen. Lindsay Graham (R., S.C.) said Sunday on CNN that it would "probably be a bridge too far" for him to support Mr. Hagel. Mr. Hagel's foreign policy views, he said, are "outside the mainstream," and he would be "the most antagonistic secretary of defense towards the state of Israel in our nation's history." Other Republicans, such as Sen. Ted Cruz (R., Texas), cited what they see as a leniency on Iran and a past reluctance to impose sanctions on Tehran as reasons for their opposition. "He has consistently advocated weakness with respect to our enemies, with respect to the nation of Iran," Mr. Cruz said on Fox. "Weakness in a secretary of defense invites conflict, because bullies don't respect weakness." Mr. Hagel's backers say he will respond to charges he isn't sufficiently supportive of Israel by pointing to votes he made in the Senate for a total of $38 billion in aid for the Jewish state, along with multiple trips to meet with leaders there. Mr. Hagel, said a person close to the decision-making process, believes in America's "special relationship" with Israel, but also believes that relationship enables officials from both governments to "speak frankly" with each other. Regarding Iran, Mr. Hagel voted at least three times for sanctions and is a supporter of multilateral sanctions, the person said, adding that Mr. Hagel has opposed some sanctioning based on specific details, not a broader opposition to sanctions. Mr. Hagel believes that military action should always be an option but, based on his war experience, believes it should only be seriously considered after diplomatic options are exhausted, this person said. The month long lag between the initial floating of Mr. Hagel's name for the post and Monday's expected announcement has provided opponents with ample oxygen for a strong fight. While a number of former high-ranking national-security officials have voiced support, backers on Capitol Hill were reluctant to campaign hard for someone who had yet to be nominated, said one person close to the process. The Republican National Committee also joined the fray Sunday, firing its initial shots against Mr. Hagel and indicating the opposition is increasingly organized. Mr. Hagel already has been openly criticized on the airwaves by the Emergency Committee for Israel, an issue-advocacy group that criticized Democrats during the 2012 campaign. Opponents also have been quick to circulate additional ammunition for their cause, such as an Iranian PressTV report Sunday headlined, "Obama expected to nominate anti-Israel Hagel as secretary of defense." One of the chief reasons Mr. Obama chose Mr. Hagel is his willingness to buck his own party in opposing the Iraq war, a senior administration official said. The position plays well to Democrats, some of whom have been critical of his potential nomination. Mr. Hagel's views on Afghanistan and the drawdown of troops there also dovetail with Mr. Obama's, and overseeing the final phases of the war may be the most important task the next secretary of defense faces. It was vital to Mr. Obama that he have someone in that position whose views are aligned with his own on Afghanistan. Another key reason Mr. Obama is willing to spend political capital on Mr. Hagel is the president wants a Republican in his cabinet, said the person familiar with the process, and there are few open positions to fulfill that goal. Defense has been a problematic area for Democratic presidents, and the White House feels Mr. Obama benefited from initially having Robert Gates, a Republican, in the slot because it gave him some political cover with GOP critics. Mr. Obama is less likely to back down in the face of opposition to Mr. Hagel after losing the nomination of U.N. Ambassador Susan Rice, who withdrew from consideration for secretary of state in the wake of GOP criticism. The White House plans to push back by casting Mr. Hagel as a decorated war hero with two Purple Hearts and underscoring that he would be the first enlisted military member to run the Defense Department. Crucial for Mr. Hagel's nomination will be the extent to which Democrats back him to offset Republican criticism. The White House intends to make clear Mr. Hagel apologized for a comment he made opposing an openly gay ambassador nominee about a decade ago. Officials also will stress the president is confident that Mr. Hagel will complete the implementation of the repeal of "don't ask, don't tell," the policy banning gays from serving openly in the military. A senior administration official said Mr. Obama would not have chosen Mr. Hagel unless he had been assured he would see through the implementation of "don't ask, don't tell." The White House also intends to push back against critics of Mr. Hagel's positions on Iran and Israel by stressing that he will be responsible for carrying out the president's policies. Supporters of Mr. Hagel noted Sunday that the top Republican in the Senate, Sen. Mitch McConnell (R., Ky.) refused to voice opposition to Mr. Hagel, whose national-security expertise he has praised in the past. "I'm going to wait and see how the hearings go and see whether Chuck's views square with the job he would be nominated to do," Mr. McConnell said on ABC, where he pledged Mr. Hagel would receive "a fair hearing" from Senate Republicans. Still, marshaling the votes to back the controversial nominee will not be easy. A senior Republican aide on Capitol Hill said he didn't think Mr. Hagel would garner much Republican support and predicted as many as 15 to 20 Democrats would have difficulty voting for him, especially those who are facing re-election in 2014 and worry about upsetting the powerful pro-Israel lobby. Democrats and their independent allies hold 55 seats in the new Senate. Administration officials said they believe they can gain majority support, and they don't think that Republicans would go so far as to block consideration of the nomination entirely.

#### Costs pc and Obama will push

Restuccia 3/21/12 (Andrew Restuccia Reporter at Politico, “Obama: 'We will not walk away' from clean-energy agenda,” <http://thehill.com/blogs/e2-wire/e2-wire/217393-obama-we-will-not-walk-away-from-clean-energy>)

“You’d think that everybody would be supportive of solar power,” Obama said during a speech at a solar plant in Boulder City, Nev. “That’s what you’d think. And yet, if some politicians had their way, there won’t be any more public investment in renewable energy.” Obama’s speech, part of a four-state energy tour, signals that the White House continues to believe that investing in clean energy is a winning political issue, despite the GOP’s attacks on Solyndra, the now-defunct California solar panel maker that received a $535 million Obama administration loan guarantee in 2009. “As long as I’m president, we will not walk away from the promise of clean energy,” Obama said. The president spoke Wednesday afternoon at the Copper Mountain Solar 1 Facility, which the White House said was the largest photovoltaic solar power plant in the country. While Obama didn’t mention Solyndra in the speech, he acknowledged that some investments “won’t pan out.” But he stressed that long-term investment in the renewable energy industry will boost the economy and create thousands of jobs. “When it comes to new technologies, the pay-offs aren’t always going to start right away,” Obama said. “Sometimes you need a jumpstart to make it happen.” The president sought to portray Republicans as out of touch and clinging to old notions. “If these guys were around when Columbus set sail, they’d be charter members of the Flat Earth Society,” Obama said, reprising a line from an earlier speech. “One member of Congress who shall remain unnamed called these jobs ‘phony,’ ” he said. Obama praised Tuesday’s decision by the Commerce Department to impose modest tariffs on imports of Chinese solar panels into the United States. “China wasn’t playing fair when it comes to solar power,” he said. “When the playing field is level, then American workers and American businesses always win. That’s why we’ve got to make sure that our laws are properly enforced.” Republicans have been working for months to punish Obama politically for the administration’s clean-energy investments, focusing in on the Solyndra failure. The GOP alleges that officials missed red flags that hinted at the Solyndra’s financial problems and that the administration approved the loan to please Obama’s campaign donors.

#### Now is pivotal – strengthening Israeli Lobby clout ensures broad war with Iran – otherwise peaceful negotiations will solve

Kaveh L Afrasiabi (former political science professor at Tehran University, Boston Universityand Bentley College. He has been a visiting scholar at Harvard University, UC Berkeley, Binghamton University, Center For Strategic Research, Tehran and Institute for Strategic Studies in Paris) December 22, 2012 “ Middle East peace hinges on will” http://www.atimes.com/atimes/Middle\_East/NL22Ak05.html

The cause of peace is predicated on the propensity of decision-makers to opt for peaceful resolution of conflicts. While there are nearly always a host of historical and political factors that trigger conflicts, the optimal necessity for bringing those conflicts to an end always revolves around the will towards peace, an important ingredient often missing in the Middle East. By all indications, 2013 will be a pivotal year for war and peace in the Middle East. The questions of who will gain the upper hand and whether the region will experience positive or negative development are difficult if not impossible to predict, but trends are unmistakable and tabulating them individually helps to decipher the evolving dynamics. To begin with, we can safely assume that the tumults of state-building in post-Arab Spring countries will continue in Tunisia and Egypt, and that Bahrain and Jordan will likely experience a continuation of the political struggle for change. It seems clear that the Kurdish issue in Iraq will grow more prominent and that Baghdad will be more beset with problems of terrorism and political factionalism. It can also be assumed that the Saudis will continue to struggle with issues of succession, and internal and regional instability; that regime change will rear as an issue in Syria; and that Israel's expansionism will be left unchecked by the US and other Western powers. The Iran nuclear standoff will still likely dominate the foreign policy agenda of the second Obama administration, particularly if the "Israel Lobby" has its say. But there are also doubts in the year. For example, what are the chances that the Syrian regime will survive in 2013? Or the Saudi-backed Bahraini regime, or Egypt's Mohamed Morsi administration? Is it feasible that the US, led by a new secretary of state, could start pressing Israel for a viable peace process, as well as for a peaceful resolution of the Iran nuclear standoff? The fundamental ambiguity surrounding such questions stems from our inability to predict the nature of policies that will be adopted and pursued by the multiple actors, given the welter of policy options that individually or collective can tip the balance towards or away from war or peace. Geopolitically, the struggle over Syria will be the dominant issue in the coming year, in light of the country's strategic significance. Should Damascus falls to the Western and Saudi-backed rebels, this would create a significant shift in the regional balance. The trend is toward a re-enactment of the Libya scenario, where parts of Syria are declared a North Atlantic Treaty Organization-protected "no fly zone". However, any regime change process could be accelerated by the introduction of chemical warfare, considered the US's "red line". A United Nations peacekeeping force may be stationed in a de facto partitioned Syria, but that would require a more durable rebel advance and an ability to retain zones of control, which may or may not happen in the coming months, given the conflict's fluidity. For those seeking genuine peace in Syria, there is no doubt that in 2013 that much more attention must be given to the role of the UN special envoy, Lakhdar Brahimi, who insists on the need for a political dialogue between the embattled government and the opposition. A new peace process There is broad consensus in policy circles around the world that a push for a new Middle East peace process is urgently called for. The week-long Gaza war in October and the subsequent Israeli announcement of new settlement expansions - as well as Palestine's acension to observer status at the UN - have breathed new impetus into pursuing what is needed and yet continues to be ignored by Washington. Obama will lose face in the world if he ignores this priority any further. He should appoint a new special envoy, direct his new secretary of state to pursue another Camp David meeting with the Israeli and Palestinian leaders, and send clear signals to Israel that it must halt land-grab actions that defy international law. Most likely, Israel will placate such US demands to some extent but only on the condition of a much tougher US approach toward Iran. The problem with this request, however, is that it militates against the improving conditions for fruitful nuclear talks. If Iran is handed such a setback in Syria, this could derail talks over Tehran's nuclear program, as it would result in heightened national security concerns. Syria has afforded both Russia and more recently Iran a Mediterranean foothold that is too valuable in the strategic realm to give up without a big fight, given the global spread of US and NATO power, so it is a given that Tehran and Moscow will do all they can to prevent Assad's demise. On the other hand, should Iran take a proactive role in shaping an orderly post al-Assad Syria - akin to the part it played at the 2001 Bonn summit on Afghanistan - then this may ease Iran-US tensions. What is clear, however, is that Iran is strongly opposed to foreign intervention in Syria and will likely increase its military assistance to Damascus in parallel with increased foreign meddling. A greater proxy war throughout the Middle East is thus anything but foreclosed, particularly if the US steps up its counter-Iran strategy. This brings us to a consideration of the chance for Iran nuclear talks succeeding in 2013. Prospects for Iran nuclear talks It is likely we will witness a major breakthrough in the Iran nuclear standoff in 2013. Iran and the International Atomic Energy Agency (IAEA) are making decent progress to reach a new modality for cooperation (see Iran nuclear talks produce a litmus test, Asia Times Online, December 18, 2012 ) and this should set a positive tone for the multilateral talks between Iran and the "5 +1" nations (the United Nations Security Council's permanent five members plus Germany). Guarded optimism is therefore not out of place, since Iran's nuclear program remains under the IAEA's supervision and Tehran has backed away from certain steps that could be deemed provocative, such as amassing a high volume of 20% enriched uranium. It has instead displayed concrete signs of its willingness to build confidence with the West, reaching out to sections of the Syrian opposition and playing a more active role in regional conflict management. But will Israel and its powerful lobby in Washington succeed in torpedoing the potential for a breakthrough in the nuclear crisis? This crucial question hinges on the ability of the White House to devise a sound Middle East policy in 2013 that does not cater to Israel's warmongering. Already, there are serious efforts by the Jewish Lobby under way to ensure that after the "fiscal cliff", the US's highest priority should be "preventing a nuclear Iran", to paraphrase a policy article in Wall Street Journal, dated December 17, penned by Charles Webb, Dennis Ross and Michael Makovsky. A clue to the absurd nature of Iranophobic discourse in the US, this seminal article makes a strong pitch for Obama's prioritization of the Iran threat by describing the fictitious scenario of a "Saudi-Iran nuclear exchange". Unfortunately, no matter how absurd, the pro-Israel lobbyists are busy at work in Washington and it remains to be seen if Obama can withstand their pressure. Lest we forget, the first Obama administration's Iran engagement policy was a dismal failure, due mainly to contradictory and half-hearted mini-steps poorly articulated at the strategic level, and not the least because of the influence of such ardent voices of Israel within the administration such as Dennis Ross. Whether or not the second Obama administration can improve and diversify its Iran policy skills is an important question that will have significant implications for the broader US Middle Eastern policy. A new foreign policy team determined to reach out for genuine dialogue with Tehran is desperately needed in Washington, and in the coming weeks and months we will have a clearer picture that would shed lights on the answer to this question.

#### Extinction

The Nation, 2005[8/6, Lexis]

The above analysis vividly indicates US aggressive intentions on some pretext against Iran. US at present is covertly aligning her allies against Iran and looking for the opportunity to initiate the offensive. The most probable hypothesis is that US would make Iran’s nuclear development programme the pretext for launching offensive. Under such an eventuality Russia would guard Iran’s interest to pre-empt US intrusion towards CAS and Russia. Any offensive action of US on Iran would amount to annexation of Gwadar Port and Karachi Port for making a ‘bridge-head’. She would make safe access for India to provide logistic support to the US forces. In this regard she would neutralise Pakistan military capabilities through electronic jamming and containing its troops through limited offensive on Eastern and Western borders and to block and keep China away from the battlefield. Both US and India know that any intrusion in Pakistan would invoke China’s bitter reaction against them. All these reactions would result into a world war. In brief the big powers would make Iran, Afghanistan, Pakistan and India as the battleground. In this scenario both India and Israel would launch pre-emptive strike on Pakistan’s nuclear strongholds and defence installations. As declared by Pakistan that any attempt on its nuclear installation would amount to strong reaction against that country. This reaction, under all possibility, would initiate nuclear war. Both Russia and China would also react to guard their strategic interests in Iran and Pakistan respectively. Initiation of nuclear weapons would amount to mass destruction and elimination of most of the global civilisation.

#### Also causes oil shocks that destroy the economy

Michael **Moran**, 8-20-20**10**; Foreign Affairs columnist for GlobalPost, covering global economics, politics and U.S. foreign policy from New York; Moran ran CFR.org, the website of the Council on Foreign Relations, Opinion: The war over war with Iran http://www.globalpost.com/dispatch/middle-east/100820/iran-war-nuclear-proliferation-israel

Yet U.S. military planners concluded long ago that Iran’s nuclear program has already developed beyond the point where air strikes could destroy it. At best, air strikes push back the day when Iran attains nuclear capability (whether it actually “tests” a warhead is another question). During the early days of the Iraq war in 2003, perhaps, such a mission might have successfully set back Iran’s nuclear weapons program a few years (though destroying it, frankly, would always have required an invasion and a sustained UNSCOM-style inspections regime). Right now, the frustrating UN sanctions route appears the best of a bad set of options. Few claim the air strikes would do long-term damage to Iran’s program. A recent assessment by James Phillips, a senior defense analyst from the conservative Heritage Foundation, concluded that Israeli air strikes could only “buy a little time” at this point. Phillips goes on to argue that it would be better for Israel to buy some time now than fight a nuclear war with Iran later – as if these are the only two options on the table. But Phillips, like other analysts of various political leanings, also lays out a series of harrowing consequences from such an attack, including possible chemical and biological counterstrikes by Iranian missiles on Israel, the unleashing of Hezbollah and Hamas against Israeli and U.S. interests, the activation of Iranian agents in Iraq to foil the American withdrawal and, in the darkest scenario, the closing of the Straits of Hormuz and attacks on Saudi oil facilities – **in effect, precipitation of a global oil crisis like none ever seen**. The fact is, in every year subsequent to our misguided Iraq invasion, both the expansion and “hardening” of Iran’s program, plus the political atmosphere in the Middle East, has lessened the potential for a successful preemptive air strike against Iranian nuclear facilities. The United States, left to its own devices right now, certainly would not take this route. The stakes in Iraq and the global economy simply are too high. For the United States, the best-case scenario would be for the conflict to ossify into a standoff reliant on Israeli and U.S. nuclear deterrence. Sanctions would continue to give incentives for Iran to stay away from taking the final, fateful step – testing a weapon.

#### Extinction

**Kemp 10**

Geoffrey Kemp, Director of Regional Strategic Programs at The Nixon Center, served in the White House under Ronald Reagan, special assistant to the president for national security affairs and senior director for Near East and South Asian affairs on the National Security Council Staff, Former Director, Middle East Arms Control Project at the Carnegie Endowment for International Peace, 2010, The East Moves West: India, China, and Asia’s Growing Presence in the Middle East, p. 233-4

The second scenario, called Mayhem and Chaos, is the opposite of the first scenario; everything that can go wrong does go wrong. The world economic situation weakens rather than strengthens, and India, China, and Japan suffer a major reduction in their growth rates, further weakening the global economy. As a result, energy demand falls and the price of fossil fuels plummets, leading to a financial crisis for the energy-producing states, which are forced to cut back dramatically on expansion programs and social welfare. That in turn leads to political unrest: and nurtures different radical groups, including, but not limited to, Islamic extremists. The internal stability of some countries is challenged, and there are more “failed states.” Most serious is the collapse of the democratic government in Pakistan and its takeover by Muslim extremists, who then take possession of a large number of nuclear weapons. The danger of war between India and Pakistan increases significantly. Iran, always worried about an extremist Pakistan, expands and weaponizes its nuclear program. That further enhances nuclear proliferation in the Middle East, with Saudi Arabia, Turkey, and Egypt joining Israel and Iran as nuclear states. Under these circumstances, the potential for nuclear terrorism increases, and the possibility of a nuclear terrorist attack in either the Western world or in the oil-producing states may lead to a further devastating collapse of the world economic market, with a tsunami-like impact on stability. In this scenario, major disruptions can be expected, with dire consequences for two-thirds of the planet’s population.

### Case

#### They don’t solve—non-federal regulations and investor uncertainty

**Walsh 11**

Bryan, Energy: The Obstacles to Scaling Up Solar Power, senior writer for TIME and TIME.com, focuses on environmental issues, general interest and national stories

<http://science.time.com/2011/01/31/energy-the-obstacles-to-scaling-up-solar-power/>

President Obama laid down a bold challenge to America in his State of the Union speech last week: get to 80% clean energy by 2035. Clean energy is a deliberately vague goal, since it will likely include nuclear, natural gas and (not really existing) clean coal in the mix. But traditional renewable energy like wind and solar will need to be a big part of the American clean energy transition Obama is planning. In a speech at NDN today (which used to stand for New Democrat Network but now stands for…nothing, as far as I can tell), Democratic Senator Jeff Bingaman of New Mexico reiterated his support for Obama’s energy goals, and raised hopes that a bill with a clean energy standard might be resurrected in this Congress. (Bingaman last year pushed a bill focused on a national renewable energy standard, but with much of the legislative focus placed on a carbon cap bill, Bingaman’s work never earned much momentum.) But he warned that it won’t be easy. “Perhaps no topic garnered more scrutiny during the 2009 markup in our committee than the renewable electricity standard,” he said. But there’s a lot more holding back renewable power in the U.S. than gridlock in Congress. One of the biggest obstacles to scaling up solar power in particular is regulation—not just from the federal government, but at the state, city and even community level. Rules on installing solar systems differ from town to town, and the work of researching and filling out permits adds to the cost of solar power across the country. According to a study by the solar installer SunRun, struggles over permits adds an average of $2,500 to the costs of each solar installation—while an effort to streamline regulations could provide a $1 billion stimulus to the residential and commercial solar markets over the next five years. “The costs to the solar market are really staggering,” says Ed Fenster, CEO of SunRun. SunRun compared U.S. regulations to those in more friendly markets for solar, like Germany and Japan. They found that Germany—which has more streamlined regulations for solar installation, as well as more generous government subsidies—keeps solar installation costs 40% lower than those in the U.S. Not coincidentally, one million new homes have gone solar in Germany over the past two years, while only about 80,000 homes in total have solar in the U.S. “Regulation is a major issue that’s holding us back,” says Lyndon Rive, the CEO of SolarCity, a major California-based solar installer. SolarCity’s experience is constructive. The company—which coves solar installation from design to financing to monitoring—has grown at a healthy clip, employing over 1,000 people and expanding from its base in California to Maryland and Washington, DC. But Rive says that the variety of regulations for solar installation are a major bottleneck on growth. It takes SolarCity a few days at most to actually install a solar system, but it often takes two to three months, if not longer, to get the permits and other preparations ready. If you’re trying to make solar a significant part of the American energy supply—currently it makes up far less than 1% of total U.S. power—red tape isn’t helping. “The wait incurred is annoying and it adds to costs overall,” says Rive. SunRun has shared the report with the Department of Energy and the White House, and the company is urging the federal government to create incentives that would push towns and cities to adopt common codes and fees for solar installation—something countries like Germany and Japan already do. The report argues that such permit standardization could make solar cost competitive for half the homes in the nation within two years. “At some level this is all about local and state governments, but the federal government can nudge things,” says Fenster. “This could drive an economy of scale.” Still, good intentions on the national level don’t always translate to the community, where parochial concerns sometimes win out. (Witness the fight over smart meters in California, which some libertarians on the right and some ultra-greens on the left have opposed over liberty and health fears.) And as important as smoother regulations are, a broad national energy policy is needed to really jump-start solar and other renewables—but climate still remains a divisive political subject. (Just look at Republican Senator John Barrasso’s new bill, which would block greenhouse gas regulations under the Clean Air Act, the Clean Water Act, the National Environmental Policy Act and the Endangered Species Act.) The least we can do now is pull the red tape off our solar panels.

#### AFF doesn’t change broader structures – doesn’t do anything for homeless people, not living in those housing – proves voting aff doesn’t uniquely solve - also plan doesn’t change power relations in broader technocracy

#### Renewables in the US are low now--- expansion collapses the utility industry--- causes price spike and turns case

King 12/21 Byron King - studied geology @ Harvard, JD Pittsburgh, advanced degree from U.S. Naval War College, Advised DoD on national energy policy. December 21, 2012 "Byron King's Shocking 2013 Predictions," seekingalpha.com/article/1077281-byron-king-s-shocking-2013-predictions?source=intbrokers\_regular<http://seekingalpha.com/article/1077281-byron-king-s-shocking-2013-predictions?source=intbrokers_regular>

TER: The green energy sector is in the midst of hard times. It's had more downs than ups during the past few years. How would you characterize alternative energies right now?

BK: The renewable energy space has been very frustrating for most investors. It's not to say that you can't produce energy using solar, wind or geothermal. Of course you can. But it gets back to that well-known critique about how, when the wind doesn't blow, you have no power. When the sun doesn't shine, you have no power. What's the answer?

Europe has a lot of wind and solar power. It creates so much power during windy and sunny times that it actually disrupts the fossil fuel baseload within Europe. Yet, for every windmill and solar field, Europe still needs fossil fuel backups to kick on if the alternative source goes down. This kind of overdevelopment of so-called renewables may feel good to the green side, but it has completely disrupted the economics of a lot of utilities across Europe. Many European utilities have ceased being investment-grade assets.

We haven't built renewables to that scale in the U.S. If we do, we would have a similar problem. Rapid overbuilding of green power will degrade the investment quality of many public utilities, which are among the few things that pension funds and institutions can still count on. It's something that investors need to keep an eye on. We blew up the stock market in 2008 with a housing meltdown. Do we want to risk blowing up the market again with a utility meltdown? We're not there yet, but we could be on that track.

#### The only coherent rubric is to maximize number of lives saved

**Greene 2010** – Associate Professor of the Social Sciences Department of Psychology Harvard University (Joshua, Moral Psychology: Historical and Contemporary Readings, “The Secret Joke of Kant’s Soul”, [www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf](http://www.fed.cuhk.edu.hk/~lchang/material/Evolutionary/Developmental/Greene-KantSoul.pdf), WEA)

What turn-of-the-millennium science is telling us is that human moral judgment is not a pristine rational enterprise, that our moral judgments are driven by a hodgepodge of emotional dispositions, which themselves were shaped by a hodgepodge of evolutionary forces, both biological and cultural. Because of this, it is exceedingly unlikely that there is anyrationallycoherentnormativemoral theory that can accommodateourmoral intuitions. Moreover, anyone who claims to have such a theory, or even part of one, almost certainly doesn't. Instead, what that person probably has is a moral rationalization.

It seems then, that we have somehow crossed the infamous "is"-"ought" divide.  How did this happen? Didn't Hume (Hume, 1978) and Moore (Moore, 1966) warn us against trying to derive an "ought" from and "is?" How did we go from descriptive scientific theories concerning moral psychology to skepticism about a whole class of normative moral theories? The answer is that we did not, as Hume and Moore anticipated, attempt to derive an "ought" from and "is." That is, our method has been inductive rather than deductive. We have inferred on the basis of the available evidence that the phenomenon of rationalist deontological philosophy is best explained as a rationalization of evolved emotional intuition (Harman, 1977).

Missing the Deontological Point  
I suspect that rationalist deontologists will remain unmoved by the arguments presented here. Instead, I suspect, they will insist that I have simply misunderstoodwhatKant and like-minded deontologistsare all about. Deontology, they will say, isn't about this intuition or that intuition. It's not defined by its normative differences with consequentialism. Rather, deontology is about taking humanity seriously. Above all else, it's about respect for persons. It's about treating others as fellow rational creatures rather than as mere objects, about acting for reasons rational beings can share. And so on (Korsgaard, 1996a; Korsgaard, 1996b).This is, no doubt, how many deontologists see deontology. But this insider's view, as I've suggested, may be misleading. The problem, more specifically, is that it defines deontology in terms of values that are notdistinctivelydeontological, though they may appear to be from the inside. Consider the following analogy with religion. When one asks a religious person to explain the essence of his religion, one often gets an answer like this: "It's about love, really. It's about looking out for other people, looking beyond oneself. It's about community, being part of something larger than oneself." This sort of answer accurately captures the phenomenology of many people's religion, but it's nevertheless inadequate for distinguishing religion from other things. This is because many, if not most, non-religious people aspire to love deeply, look out for other people, avoid self-absorption, have a sense of a community, and be connected to things larger than themselves. In other words, secular humanists and atheists can assent to most of what many religious people think religion is all about. From a secular humanist's point of view, in contrast, what's distinctive about religion is its commitment to the existence of supernatural entities as well as formal religious institutions and doctrines. And they're right. These things really do distinguish religious from non-religious practices, though they may appear to be secondary to many people operating from within a religious point of view.  
In the same way, I believe that most of the standard deontological/Kantian self-characterizatons fail to distinguish deontology from other approaches to ethics. (See also Kagan (Kagan, 1997, pp. 70-78.) on the difficulty of defining deontology.) It seems to me that consequentialists, as much as anyone else, have respect for persons, are against treating people asmereobjects, wish to act for reasons that rational creatures can share, etc. A consequentialist respects other persons, and refrains from treating them as mere objects, by counting every person's well-beingin the decision-making process. Likewise, a consequentialist attempts to act according to reasons that rational creatures can share by acting according to principles that give equal weight to everyone's interests, i.e. that are impartial. This is not to say that consequentialists and deontologists don't differ. They do. It's just that the real differences may not be what deontologists often take them to be.  
What, then, distinguishes deontology from other kinds of moral thought? A good strategy for answering this question is to start with concrete disagreements between deontologists and others (such as consequentialists) and then work backward in search of deeper principles. This is what I've attempted to do with the trolley and footbridge cases, and other instances in which deontologists and consequentialists disagree. If you ask a deontologically-minded person why it's wrong to push someone in front of speeding trolley in order to save five others, you will getcharacteristically deontological answers. Some will betautological: "Because it's murder!"Others will be more sophisticated: "The ends don't justify the means." "You have to respect people's rights." But, as we know, these answers don't really explain anything, because if you give the same people (on different occasions) the trolley case or the loop case (See above), they'll make the opposite judgment, even though their initial explanation concerning the footbridge case applies equally well to one or both of these cases. Talk about rights, respect for persons, and reasons we can share are natural attempts to explain, in "cognitive" terms, what we feel when we find ourselves having emotionally driven intuitions that are odds with the cold calculus of consequentialism. Although these explanations are inevitably incomplete, there seems to be "something deeply right" about thembecause they give voice to powerful moral emotions. But, as with many religious people's accounts of what's essential to religion, they don't really explain what's distinctive about the philosophy in question.

#### Nuke war threat is real and o/w structural and invisible violence

Ken Boulding 78 is professor of economics and director, Center for Research on Conflict Resolution, University of Michigan, “Future Directions in Conflict and Peace Studies,” The Journal of Conflict Resolution, Vol. 22, No. 2 (Jun., 1978), pp. 342-354

Galtung is very legitimately interested in problems of world poverty and the failure of development of the really poor. He tried to amalga- mate this interest with the peace research interest in the more narrow sense. Unfortunately, he did this by downgrading the study of inter- national peace, labeling it "negative peace" (it should really have been labeled "negative war") and then developing the concept of "structural violence," which initially meant all those social structures and histories which produced an expectation of life less than that of the richest and longest-lived societies. He argued by analogy that if people died before the age, say, of 70 from avoidable causes, that this was a death in "war"' which could only be remedied by something called "positive peace." Unfortunately, the concept of structural violence was broadened, in the word of one slightly unfriendly critic, to include anything that Galtung did not like. Another factor in this situation was the feeling, certainly in the 1960s and early 1970s, that nuclear deterrence was actually succeeding as deterrence and that the problem of nuclear war had receded into the background. This it seems to me is a most danger- ous illusion and diverted conflict and peace research for ten years or more away from problems of disarmament and stable peace toward a grand, vague study of world developments, for which most of the peace researchers are not particularly well qualified. To my mind, at least, the quality of the research has suffered severely as a result.' The complex nature of the split within the peace research community is reflected in two international peace research organizations. The official one, the International Peace Research Association (IPRA), tends to be dominated by Europeans somewhat to the political left, is rather, hostile to the United States and to the multinational cor- porations, sympathetic to the New International Economic Order and thinks of itself as being interested in justice rather than in peace. The Peace Science Society (International), which used to be called the Peace Research Society (International), is mainly the creation of Walter Isard of the University of Pennsylvania. It conducts meetings all around the world and represents a more peace-oriented, quantitative, science- based enterprise, without much interest in ideology. COPRED, while officially the North American representative of IPRA, has very little active connection with it and contains within itself the same ideological split which, divides the peace research community in general. It has, however, been able to hold together and at least promote a certain amount of interaction between the two points of view. Again representing the "scientific" rather than the "ideological" point of view, we have SIPRI, the Stockholm International Peace Research Institute, very generously (by the usual peace research stand- ards) financed by the Swedish government, which has performed an enormously useful service in the collection and publishing of data on such things as the war industry, technological developments, arma- ments, and the arms trade. The Institute is very largely the creation of Alva Myrdal. In spite of the remarkable work which it has done, how- ever, her last book on disarmament (1976) is almost a cry of despair over the folly and hypocrisy of international policies, the overwhelming power of the military, and the inability of mere information, however good, go change the course of events as we head toward ultimate ca- tastrophe. I do not wholly share her pessimism, but it is hard not to be a little disappointed with the results of this first generation of the peace research movement. Myrdal called attention very dramatically to the appalling danger in which Europe stands, as the major battleground between Europe, the United States, and the Soviet Union if war ever should break out. It may perhaps be a subconscious recognition-and psychological denial-of the sword of Damocles hanging over Europe that has made the European peace research movement retreat from the realities of the international system into what I must unkindly describe as fantasies of justice. But the American peace research community, likewise, has retreated into a somewhat niggling scientism, with sophisticated meth- odologies and not very many new ideas. I must confess that when I first became involved with the peace research enterprise 25 years ago I had hopes that it might produce some- thing like the Keynesian revolution in economics, which was the result of some rather simple ideas that had never really been thought out clearly before (though they had been anticipated by Malthus and others), coupled with a substantial improvement in the information system with the development of national income statistics which rein- forced this new theoretical framework. As a result, we have had in a single generation a very massive change in what might be called the "conventional wisdom" of economic policy, and even though this conventional wisdom is not wholly wise, there is a world of difference between Herbert Hoover and his total failure to deal with the Great Depression, simply because of everybody's ignorance, and the moder- ately skillful handling of the depression which followed the change in oil prices in 1-974, which, compared with the period 1929 to 1932, was little more than a bad cold compared with a galloping pneumonia. In the international system, however, there has been only glacial change in the conventional wisdom. There has been some improvement. Kissinger was an improvement on John Foster Dulles. We have had the beginnings of detente, and at least the possibility on the horizon of stable peace between the United States and the Soviet Union, indeed in the whole temperate zone-even though the tropics still remain uneasy and beset with arms races, wars, and revolutions which we cannot really afford. Nor can we pretend that peace around the temper- ate zone is stable enough so that we do not have to worry about it. The qualitative arms race goes on and could easily take us over the cliff. The record of peace research in the last generation, therefore, is one of very partial success. It has created a discipline and that is something of long-run consequence, most certainly for the good. It has made very little dent on the conventional wisdom of the policy makers anywhere in the world. It has not been able to prevent an arms race, any more, I suppose we might say, than the Keynesian economics has been able to prevent inflation. But whereas inflation is an inconvenience, the arms race may well be another catastrophe. Where, then, do we go from here? Can we see new horizons for peace and conflict research to get it out of the doldrums in which it has been now for almost ten years? The challenge is surely great enough. It still remains true that war, the breakdown of Galtung's "negative peace," remains the greatest clear and present danger to the human race, a danger to human survival far greater than poverty, or injustice, or oppression, desirable and necessary as it is to eliminate these things. Up to the present generation, war has been a cost and an inconven- ience to the human race, but it has rarely been fatal to the process of evolutionary development as a whole. It has probably not absorbed more than 5% of human time, effort, and resources. Even in the twenti- eth century, with its two world wars and innumerable smaller ones, it has probably not acounted for more than 5% of deaths, though of course a larger proportion of premature deaths. Now, however, ad- vancing technology is creating a situation where in the first place we are developing a single world system that does not have the redundancy of the many isolated systems of the past and in which therefore if any- thing goes wrong everything goes wrong. The Mayan civilization could collapse in 900 A.D., and collapse almost irretrievably without Europe or China even being aware of the fact. When we had a number of iso- lated systems, the catastrophe in one was ultimately recoverable by migration from the surviving systems. The one-world system, therefore, which science, transportation, and communication are rapidly giving us, is inherently more precarious than the many-world system of the past. It is all the more important, therefore, to make it internally robust and capable only of recoverable catastrophes. The necessity for stable peace, therefore, increases with every improvement in technology, either of war or of peacex

#### Even if our impacts are extremely unlikely they still outweigh—it’s more devastating than repetitive systemic harm

**Sunstein 2007** – Felix Frankfurter Professor of Law at Harvard Law School, clerked for Justice Marshall in the Supreme Court (Cass, Harvard University Press, “Worst-case scenarios”, pages 138-9)

A Catastrophic Harm Precautionary Principle, of the modest kind just sketched, raises several questions. The most obvious is whether a low-probability risk of catastrophe might not deserve more attention than higher-probability risks, even when the expected value appears to be equal. The reason is that the loss of 200 million people may be more than 1,000 times worse than the loss of 2,000 people. Pause over the real-world meaning of a loss of 200 million people in the United States. The nation would find it extremely hard to recover. Private and public institutions would be damaged for a long time, perhaps forever. **What kind of government would emerge? What would its economy look like? Future generations would inevitably suffer.** The effect of a catastrophe greatly outruns a simple multiplication of a certain number of lives lost. The overall "cost" of losing two-thirds of the American population is far more than 100,000 times the cost of losing 2,000 people.

The same point holds when the numbers are smaller. Following the collapse of a dam that left 120 people dead and 4,000 homeless in Buffalo Creek, Virginia, psychiatric researchers continued to find significant psychological and sociological changes two years after the disaster occurred. Survivors still suffered a loss of direction and energy, along with other disabling character changes.41 One evaluator attributed this "Buffalo Creek Syndrome" specifically to "the loss of traditional bonds of kinship and neighborliness."42

Genuine catastrophes, involving tens of thousands or millions of deaths, would magnify that loss to an unimaginable degree. A detailed literature on the "social amplification of risk" explores the secondary social losses that greatly outrun the initial effects of given events.43 The harm done by the attacks of 9/11, for instance, far exceeded the deaths on that day, horrendous as those were. One telling example: Many people switched, in the aftermath of the attack, to driving long distances rather than flying, and the switch produced almost as many highway deaths as the attacks themselves, simply because driving is more dangerous than flying.44 The attacks had huge effects on other behaviors of individuals, businesses, and governments, resulting in costs of hundreds of billions of dollars, along with continuing fear, anxiety, and many thousands of additional deaths from the Afghanistan and Iraq wars.

We might therefore identify a second version of the Catastrophic Harm Precautionary Principle, also attuned to expected value but emphasizing some features of catastrophic risk that might otherwise be neglected**: Regulators should consider the expected value of catastrophic risks, even when the worst-case scenario is highly unlikely.** In assessing expected value, regulators **should consider the distinctive features of catastrophic harm, including the "social amplification” of such harm.** Regulators should choose cost-effective measures to reduce those risks and should attempt to compare the expected value of the risk with the expected value of precautionary measures.

#### Rescher agrees

**Rescher, 83** (Nicholas, Department of Philosophy at the University of Pittsburgh, Risk: A Philosophical Introduction to the theory of risk evaluation, p. 67)

In such situations we are dealing with hazards that are just not in the same league. Certain hazards are simply unacceptable because they involve a relatively unacceptable threat—things may go wrong so badly that, relative to the alternatives, it’s just not worthwhile to “run the risk,” even in the face of a favorable balance of probabilities. The rational man is not willing to trade off against one another by juggling probabilities such outcomes as the loss of one hair and the loss of his health or his freedom. The imbalance or disparity between risks is just too great to be restored by probablistic readjustments. They are (probablistically) incommersuable: confronted with such “incomparable” hazards, we do not bother to weigh this “balance of probabilities” at all, but simply dismiss one alternative as involving risks that are, in the circumstances, “unacceptable”.

#### We control uniqueness—human well-being is on the rise because of economic growth – poverty and suffering will decline unless growth ceases

Goklany 9**—**Worked with federal and state governments, think tanks, and the private sector for over 35 years. Worked with IPCC before its inception as an author, delegate and reviewer. Negotiated UN Framework Convention on Climate Change. Managed the emissions trading program for the EPA. Julian Simon Fellow at the Property and Environment Research Center, visiting fellow at AEI, winner of the Julian Simon Prize and Award. PhD, MS, electrical engineering, MSU. B.Tech in electrical engineering, Indian Institute of Tech. (Indur, “Have increases in population, affluence and technology worsened human and environmental well-being?” 2009, <http://www.ejsd.org/docs/HAVE_INCREASES_IN_POPULATION_AFFLUENCE_AND_TECHNOLOGY_WORSENED_HUMAN_AND_ENVIRONMENTAL_WELL-BEING.pdf>)

Although global population is no longer growing exponentially, it has quadrupled since 1900. Concurrently, affluence (or GDP per capita) has sextupled, global economic product (a measure of aggregate consumption) has increased 23-fold and carbon dioxide has increased over 15-fold (Maddison 2003; GGDC 2008; World Bank 2008a; Marland et al. 2007).4 But contrary to Neo- Malthusian fears, average **human well-being,** measured by any objective indicator, **has never been higher**. Food supplies, Malthus’ original concern, are up worldwide. Global food supplies per capita increased from 2,254 Cals/day in 1961 to 2,810 in 2003 (FAOSTAT 2008). This helped reduce hunger and malnutrition worldwide. The proportion of the population in the developing world, suffering from chronic hunger declined from 37 percent to 17 percent between 1969–71 and 2001–2003 despite an 87 percent population increase (Goklany 2007a; FAO 2006). The reduction in hunger and malnutrition, along with improvements in basic hygiene, improved access to safer water and sanitation, broad adoption of vaccinations, antibiotics, pasteurization and other public health measures, helped reduce mortality and increase life expectancies. These improvements first became evident in today’s developed countries in the mid- to late-1800s and started to spread in earnest to developing countries from the 1950s. The infant mortality rate in developing countries was 180 per 1,000 live births in the early 1950s; today it is 57. Consequently, global life expectancy, perhaps the single most important measure of human well-being, increased from 31 years in 1900 to 47 years in the early 1950s to 67 years today (Goklany 2007a). Globally, average **annual per capita incomes tripled** since 1950. The proportion of the world’s population outside of high-income OECD countries living in absolute poverty (average consumption of less than $1 per day in 1985 International dollars adjusted for purchasing power parity), fell from 84 percent in 1820 to 40 percent in 1981 to 20 percent in 2007 (Goklany 2007a; WRI 2008; World Bank 2007). Equally important, the world is more literate and better educated. Child labor in low income countries declined from 30 to 18 percent between 1960 and 2003. In most countries, people are freer politically, economically and socially to pursue their goals as they see fit. More people choose their own rulers, and have freedom of expression. They are more likely to live under rule of law, and less likely to be arbitrarily deprived of life, limb and property. Social and professional mobility has never been greater. It is easier to transcend the bonds of caste, place, gender, and other accidents of birth in the lottery of life. People work fewer hours, and have more money and better health to enjoy their leisure time (Goklany 2007a). Figure 3 summarizes the U.S. experience over the 20th century with respect to growth of population, affluence, material, fossil fuel energy and chemical consumption, and life expectancy. It indicates that population has multiplied 3.7-fold; income, 6.9-fold; carbon dioxide emissions, 8.5-fold; material use, 26.5-fold; and organic chemical use, 101-fold. Yet its life expectancy increased from 47 years to 77 years and infant mortality (not shown) declined from over 100 per 1,000 live births to 7 per 1,000. It is also important to note that not only are people living longer, they are healthier. The disability rate for seniors declined 28 percent between 1982 and 2004/2005 and, despite better diagnostic tools, major diseases (e.g., cancer, and heart and respiratory diseases) occur 8–11 years later now than a century ago (Fogel 2003; Manton et al. 2006). If similar figures could be constructed for other countries, most would indicate qualitatively similar trends, especially after 1950, except Sub-Saharan Africa and the erstwhile members of the Soviet Union. In the latter two cases, life expectancy, which had increased following World War II, declined after the late 1980s to the early 2000s, possibly due poor economic performance compounded, especially in Sub-Saharan Africa, by AIDS, resurgence of malaria, and tuberculosis due mainly to poor governance (breakdown of public health services) and other manmade causes (Goklany 2007a, pp.66–69, pp.178–181, and references therein). However, there are signs of a turnaround, perhaps related to increased economic growth since the early 2000s, although this could, of course, be a temporary blip (Goklany 2007a; World Bank 2008a). Notably, in most areas of the world, the healthadjusted life expectancy (HALE), that is, life expectancy adjusted downward for the severity and length of time spent by the average individual in a less-than-healthy condition, is greater now than the unadjusted life expectancy was 30 years ago. HALE for the China and India in 2002, for instance, were 64.1 and 53.5 years, which exceeded their unadjusted life expectancy of 63.2 and 50.7 years in 1970–1975 (WRI 2008). Figure 4, based on cross country data, indicates that contrary to Neo-Malthusian fears, both life expectancy and infant mortality improve with the level of affluence (economic development) and time, a surrogate for technological change (Goklany 2007a). Other indicators of human well-being that improve over time and as affluence rises are: access to safe water and sanitation (see below), literacy, level of education, food supplies per capita, and the prevalence of malnutrition (Goklany 2007a, 2007b).

# 2nc

## 2NC Courts

### 2NC – A2 Perm Do Both

#### Links to politics – Only PRIOR court action solves

Garrett and Stutz, 2005 (Robert T. Garrett and Terrence Stutz, Dallas Morning News, “School finance now up to court Justices to decide if overhaul needed after bills fail in Legislature” lexis)

That could foreshadow the court's response to a chief argument by state attorneys – that the court should butt out and leave school finance to the Legislature. A court finding against the state would put the ball back in the hands of lawmakers, who have tended to put off dealing with problems in schools, prisons and mental health facilities until state or federal judges forced them to act. "It's the classic political response to problems they don't want to deal with," said Maurice Dyson, a school finance expert and assistant law professor at Southern Methodist University. "There is no better political cover than to have a court rule that something must be done, which allows politicians to say their hands are tied."

#### Mootness – the CP wont happen in a world of the perm

Lee, 1992 (Evan Tsen Lee, Associate Professor, University of California, Hastings College of the Law, Harvard Law Review, January, lexis)

ONE of the major impediments to the judicial protection of collective rights 1 is the group of doctrines falling under the rubric [\*606] of "justiciability" -- standing, ripeness, and mootness. 2 These are the gatekeeper doctrines; each regulates a different dimension of entrance to the federal courts. The law of standing considers whether the plaintiff is the proper person to assert the claim, the law of ripeness ensures that the plaintiff has not asserted the claim too early, 3 and the law of mootness seeks to prevent the plaintiff from asserting the claim too late. 4 By keeping certain public-minded plaintiffs and public-law claims out of federal court, these doctrines have shifted much of the battle for collective rights to the more steeply pitched fields of state courts or the political process. 5 In particular, defendants in public law litigation have had considerable success keeping such cases out of the federal courts by invoking the "case or controversy" requirement [\*607] of Article III. 6 Under current Supreme Court precedent, if a plaintiff cannot demonstrate that she possesses an ongoing "personal stake" in the outcome of the litigation, a federal court has no jurisdiction to adjudicate the claim on the merits. 7 No amount of judicial discretion can overcome this jurisdictional defect, because Article III demarcates the outer limit of federal court power. 8 As a result, many attempts to establish entitlements to important collective rights fail before courts can give them full consideration.

#### Even if the ruling happens, it would not make a constitutional claim.

Lee, 1992 (Evan Tsen Lee, Associate Professor, University of California, Hastings College of the Law, Harvard Law Review, January, lexis)

Doubtless some will point to Supreme Court opinions characterizing decisions in moot cases as advisory opinions and stating that the [\*651] court has no jurisdiction to proceed in moot cases. A few such opinions exist, 270 although many more imply that the mootness and advisory opinions doctrines are distinct (but related) ideas. 271 The most satisfying way to view the present doctrinal relationship of mootness, advisory opinions, and Article III is as follows: decisions in moot cases are currently prohibited because they are said to exceed the jurisdictional grants of Article III; additionally, decisions in moot cases implicate the prudential component of the advisory opinions doctrine, but they do not implicate the doctrine's constitutional core. Thus, the constitutional dimension to the prohibition against deciding moot cases stems directly from Article III and not from an analogy to advisory opinions. If the Court were to repudiate its position that the mootness doctrine is constitutionally compelled, the analogy to advisory opinions would pose no independent constitutional obstacle to deciding moot cases on the merits.

### 2NC – A2 Perm Do the CP

#### First, it severs the agent. “The” means whole [USFG].

Merriam-Websters, 2010 (Online dictionary)

used as a function word before a noun or a substantivized adjective to indicate reference to a group as a whole

#### Courts can’t reduce—they rely on acquiescence.

Hanson et al, 2006 (Jon D. Hanson, professor at Harvard Law School; and Adam Benforado, Frank Knox Fellow at Cambridge University, “The drifters: Why the supreme court makes justices more liberal” January/February, online)

It would be a mistake to believe that the only situation that influences justices comes from within the Supreme Court building or individual judges’ limited spheres of interaction. The mechanisms designed to keep the judiciary independent of the other branches of government are necessarily incomplete, and there is good evidence that judges frequently interpret laws in ways that align with the particular policy desires of sitting members of Congress and the current president. This is not surprising given the forces that Congress and the president can bring to bear on the judiciary—including limiting or even stripping jurisdiction in certain areas, altering the size of federal courts, and instituting impeachment hearings. Just as important is the fact that the court cannot implement its orders without the acquiescence and assistance of other government actors. In addition, lower-court judges may be constrained by pressures not to be overruled by higher courts or the need to stake out particular positions in order to improve their chances of promotion within the judiciary.

#### Also, unenforceability.

Treanor and Sperling, 1993 (William Michael Treanor, Associate Professor of Law, Fordham University; and Gene B. Sperling, J.D., Yale Law School, Columbia Law Review, December, lexis)

Commentators have generally agreed with the overwhelming majority of courts that an overruling decision has the effect of automatically reviving statutes. For example, Erica Frohman Plave observed that revival was a necessary function of the limited scope of a judicial determination of unconstitutionality: "Such laws found unconstitutional are merely unenforceable until such time as they are found valid." 54 Professor Gerald Gunther has pronounced Attorney General Cummings's conclusion that Adkins "simply "suspended' enforcement" 55 of the District of Columbia minimum wage statute "persuasive," 56 and Professor Melville Nimmer similarly declared that "it seems clear that Attorney General Homer Cummings' opinion was correct." 57 Finally, Professor Oliver Field noted that a statute that has been found unconstitutional becomes enforceable when the case in which it was held unconstitutional is reversed because "a declaration of unconstitutionality does not operate as a repeal of a statute." 58 [\*1916]

#### ‘reduce’ modifies ‘restriction’ – means there must be legislative action

Hill and Hill (Gerald, Executive Director of the California Governor’s Housing Commission, Practice law for more than four decades, Kathleen, M.A. in political psychology from California State University. She was also a Fellow in Public Affairs with the prestigious Coro Foundation) 2005 “restriction” http://legal-dictionary.thefreedictionary.com/restriction

restriction n. any limitation on activity, by statute, regulation or contract provision. In multi-unit real estate developments, condominium and cooperative housing projects, managed by homeowners' associations or similar organizations are usually required by state law to impose restrictions on use. Thus, the restrictions are part of the "covenants, conditions and restrictions," intended to enhance the use of common facilities and property, recorded and incorporated into the title of each owner.

### Solvency

#### Courts have authority to rule over energy production

Brenda Bowers April 2011 “Future Of American Energy Production At Stake In US Supreme Court – Big Government” http://brendabowers.wordpress.com/2011/04/19/%C2%BB-future-of-american-energy-production-at-stake-in-us-supreme-court-big-government/

We all know how important energy is in our lives, just as commercial energy is critical to free market capitalism and the pursuit of prosperity in America. Now, thanks to environmental activists and several states, that may all be at risk in the US Supreme Court. In 2004, unhappy that the duly elected Bush administration wasn’t restricting carbon emissions in the alleged cause of global warming, environmental activism prompted several states to file a “public nuisance” lawsuit, which would empower the courts in this regard. They lost in the lower court but that was reversed in 2007. This case is novel, and far more aggressive and disruptive than the global warming case the Court previously permitted. In a 2007 decision, Massachusetts v. EPA, a closely divided Court agreed with 12 states and several cities that the Environmental Protection Agency has authority to regulate carbon dioxide as a pollutant under the Clean Air Act. Though that case dealt with a narrow claim to enforce a federal statute, the Court’s decision emboldened what had already become a cottage industry of lawsuits designed to slow global warming by asking federal courts to enact what interest groups have been unable to secure through the democratic process: carbon caps and other limits on the way energy is produced in this country. Under the guise of “public nuisance,” the plaintiffs in these suits seek to impose enormous damages and binding emissions caps on energy companies. The plaintiffs have acknowledged that their goal is a veritable sea change in the way energy is produced, sold, and used in this country. Incredibly, they assert that these companies can make major changes to lower emissions – such as the adoption of wind and solar alternatives – “without significantly increasing the cost of electricity.” But never before has the “public nuisance” doctrine been used to set national economic and energy policy. While litigation may be therapeutic for those frustrated by political inaction, this case is at odds with this country’s legal tradition. Meanwhile, a recently elected Republican House is taking steps to go in the other direction through budget cuts to the EPA. Environmental activism in the US is, in effect, looking to up-end the democratic process – an all too common theme across the Left – by empowering the courts to make policy in perhaps the single most critical policy area for American prosperity.

### A2 no enforce

#### Recent data proves – Court will have the last word

Adam Litpak (Writer for the New York Times) August 20, 2012 “In Congress’s Paralysis, a Mightier Supreme Court” http://www.nytimes.com/2012/08/21/us/politics/supreme-court-gains-power-from-paralysis-of-congress.html

The Supreme Court does not always have the last word. Sure, its interpretation of the Constitution is the one that counts, and only a constitutional amendment can change things after the justices have acted in a constitutional case. But much of the court’s work involves the interpretation of laws enacted by Congress. In those cases, the court is, in theory at least, engaged in a dialogue with lawmakers. Lately, though, that conversation has become pretty one-sided, thanks to the legislative paralysis brought on by Congressional polarization. The upshot is that the Supreme Court is becoming even more powerful. Here is the way things are supposed to work. In cases concerning the interpretation of ambiguous federal statutes, the justices give their best sense of what the words of the law mean and how they apply in the case before them. If Congress disagrees, all it needs to do is say so in a new law. The most prominent recent example of this dynamic was Ledbetter v. Goodyear Tire and Rubber Company, the 2007 ruling that said Title VII of the Civil Rights Act of 1964 imposed strict time limits for bringing workplace discrimination suits. In her dissent, Justice Ruth Bader Ginsburg reminded lawmakers that on earlier occasions they had overridden what she called “a cramped interpretation of Title VII.” “Once again,” she wrote, “the ball is in Congress’s court.” Congress responded with the Lilly Ledbetter Fair Pay Act of 2009, which overrode the 2007 decision. This sort of back and forth works only if Congress is not paralyzed. An overlooked consequence of the current polarization and gridlock in Congress, a new study found, has been a huge transfer of power to the Supreme Court. It now almost always has the last word, even in decisions that theoretically invite a Congressional response. “Congress is overriding the Supreme Court much less frequently in the last decade,” Richard L. Hasen, the author of the study, said in an interview. “I didn’t expect to see such a dramatic decline. The number of overrides has fallen to almost none.” The few recent overrides of major decisions, including the one responding to the Ledbetter case, were by partisan majorities. “In the past, when Congress overturned a Supreme Court decision, it was usually on a nonpartisan basis,” said Professor Hasen, who teaches at the University of California, Irvine. In each two-year Congressional term from 1975 to 1990, he found, Congress overrode an average of 12 Supreme Court decisions. The corresponding number fell to 4.8 in the decade ending in 2000 and to just 2.7 in the last dozen years. “Congressional overruling of Supreme Court cases,” Professor Hasen wrote, “slowed down dramatically since 1991 and essentially halted in January 2009.” Tracking legislative overrides is not an exact science, as some fixes may be technical and trivial. And there may be other reasons for the decline, including drops in legislative activity generally and in the Supreme Court’s docket. But scholars who follow the issue say that Professor Hasen has discovered something important. “Particularly since the 2000 elections, there has been a big falloff in overrides,” said William N. Eskridge Jr., a law professor at Yale and the author of a seminal 1991 study on which Professor Hasen built his own. “It gives the Supreme Court significantly more power and Congress significantly less power.” Richard H. Pildes, a law professor at New York University, said the findings were further proof that “the hyperpolarization of Congress is the single most important fact about American governance today.” It is, he said, a phenomenon that has “been building steadily over the last 30 years and is almost certainly likely to be enduring for the foreseeable future.” “The assumption,” he added, “has long been that when the court interprets a federal statute, Congress can always come back in and fix the statute if it disagrees with the court. Now, however, **the court’s decisions are likely to be the last word**, not the first word, on what a statute means.”

#### Courts solve – no rollback

Richard Hasan (Chancellor’s Professor of Law and Political Science, UC Irvine School of Law) August 14, 2012 “END OF THE DIALOGUE? POLITICAL POLARIZATION, THE SUPREME COURT, AND CONGRESS” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2130190>

Whether or not one subscribes to the view of positive political theorists that Supreme Court Justices interpret federal statutes in line with their personal preferences and their strategic calculations about the chances of reversal, there seems little doubt that as things currently stand that a majority of Supreme Court Justices is usually getting its way when it comes to statutory interpretation. Supreme Court interpretations of federal statutes are now very likely to be final. The combination of Supreme Court interpretive rules premised on the CourtCongress dialogue, and the failure of Congress to override any significant number of Court interpretations of federal statutes, has given the Justices the last word on statutory interpretation questions almost as often as they get the last word on constitutional questions.

### A2 links ptix

#### Courts don’t link to politics- shielded from political pressure

Ward, 2009 (Artemus Ward, Professor at NIU, Political Foundations of Judicial Supremacy, Congress and The Presidency, pg. 119)

After the old order has collapse the once- united, new-regime coalition begins to fracture as original commitments are extended to new issues. In chapter 3 Whittington combines Skowronek's articulation and disjunctive categories into the overarching "affiliated" presidencies as both seek to elaborate the regime begun under reconstructive leaders. By this point in the ascendant regime, Bourts are staffed by justices from the dominant ruling coalition via the appointment process - and Whittington spends time on appointment politics here and more fully in chapter 4. Perhaps counter-intuitively, affiliated political actors - including presidents - encourage Courts to exercise vetoes and operate in issue areas of relatively low political salience. Of course, this "activism" is never used against the affiliated president per se. Instead, affiliated Courts correct for the overreaching of those who operate outside the preferred constitutional vision, which are often state and local governments who need to be brought into line with nationally dominant constitutional commitments. Whittington explains why it is easier for affilitated judges, rather than affiliated presidents, to rein in outliers and conduct constitutional maintenance. The latter are saddled with controlling opposition political figures, satisfying short-term political demands, and navigating intraregime gridlock and political thickets. Furthermore, because of their electoral accountability, politicians engage in position-taking, credit-claiming, and blame-avoidance behavior. By contrast, their judicial counterparts are relatively sheltered from political pressures and have more straightforward decisional processes. Activist Courts can take the blame for advancing and legitimizing constitutional commitments that might have electoral costs. In short, a division of labor exists between politicians and judges affiliated with the dominant regime.

#### Court action avoids energy lobby backlash

Matthew Hall (JD, Loyola Law School, former associate attorney at a litigation firm, and was an Adjunct Professor of Law at Loyola Law School) Winter 2010 “ A Catastrophic Conundrum, But Not a Nuisance: Why the Judicial Branch is Ill-Suited to Set Emissions Restrictions on Domestic Energy Producers Through the Common Law Nuisance Doctrine” 13 Chap. L. Rev. 265, Lexis

The energy lobby has long been accused of attempting to prevent, delay or at a minimum, assure the energy industry favorable terms in any comprehensive policy on climate change. 167 Energy companies have committed large sums of money to these causes. For instance, The American Coalition for Clean Coal Electricity, an advocacy group consisting of 48 energy producers, mining companies, and railroads, had committed $ 9.95 million to those ends as of March 2009. 168 Energy producers routinely make large campaign contributions to high-ranking members of Congressional committees charged with energy regulation and environmental action. For example, one of the largest contributors during the 2009-2010 campaign cycle to Rep. Joe Barton, Chairman of the House Committee on Energy & [\*295] Commerce, is none other than American Electric Power Co., the lead defendant in Connecticut v. American Electric Power Co. 169 The industries making the two largest contributions to Rep. Barton are the lectric utilities and oil & gas industries. 170 Given the aggressive attempts to influence climate change legislation that the energy lobby has demonstrated, an event causing energy producers to support emissions reduction legislation would be significant in making progress in this area. A decision authorizing piecemeal judicial regulation of emissions could be such an event. While the energy lobby has long resisted comprehensive emissions reduction policies, if such policies are to be initiated, it follows that energy producers would prefer they come from a source over which influence can be asserted to assure favorable terms. A judicially created emissions restriction seems to be a worst case scenario for energy producers. Unlike the political branches of government, the judiciary is intended to be beyond reproach by lobbyists. Without the need for (or the ability to accept) political contributions, the influence that can be asserted over the judiciary should be markedly less than that over the legislative process in Congress. The executive can be influenced in a similar manner, especially a first-term President needing cooperation on other major policy initiatives, including health care reform.

## Case

### 2nc

#### utilitarianism is vital to protect minority interests

**Hinman, 1998** (Lawrence, professor of philosophy at the University of San Diego, Ethics: A Pluralistic Approach to Moral Theory, <http://ethics.acusd.edu/Courses/ComputerEthics/Utilitarianism.DOC>)

As we have already seen, utilitarianism is, at heart, an impartial moral doctrine, and as such it does not give any special weight to the concerns of any particular group, whether racial, ethnic, or cultural. But its impartiality is, in many ways, also its potential strength for minority groups with little power, for utilitarianism when properly applied says that their suffering and unhappiness counts just as much as the suffering and unhappiness of those who do hold the power and influence in society. Strict adherence to utilitarian impartiality alone could sometimes bring significant advantages to minority groups, but this is not always so. Consider a typical situation in which the interests of minority groups have not counted on a par with those of the majority group. Imagine the planning of a new highway for which private lands have to be appropriated. Often the lands appropriated for such projects are those that belong to poorer groups that have less political influence. Does this violate utilitarian principles? Utilitarianism states that everyone’s suffering is of equal weight (presuming it is of equal intensity). That means that the suffering that a poor person of color experiences when uprooted is of equal value to the suffering that a rich, white corporate executive experiences when uprooted, again presuming both have equally intense feelings about being relocated.

## T – restrictions

### 2nc prefer our evidence

#### Restrictions is a term of art that was added to the resolution out of the fear that financial incentives alone might not allow certain affs related to oil or gas production because there are certain moratoria that they wanted to keep from writing out half of the energy types—the WORST possible way to advance the topic from there is to exploit the superior link defense and counterplan answers of restrictions aff by construing everything that discourages development to be a restriction.

#### 2 impacts—

#### 1. Limits—restrictions affs already sidestep core incentive DAs and mechanism-based counterplans with an automatic fed key warrant—the worst possible way to restore balance is assuming any policy discouraging production is a de facto restriction. Only defining restrictions as policies that necessarily prevent production gives us a thematically coherent subject with a check on bad faith readings.

#### 2. Precision—“restrictions” is a term of art chosen deliberately, that's Heinze. Blurring the line generates legal confusion which creates divergent understandings of core topic controversies—prereq to any of their offense.

#### This card is devastating

**Shapiro**, associate – Energy, Environment & Public Utilities Practice Group @ Cozen O'Connor, publisher – Green Building Law Blog, **2011**

(Shari, “Code Green: Is 'Greening' the Building Code the Best Approach to Create a Sustainable Built Environment?” Planning & Environmental Law 63:6, p. 3-12)

The explosion of state and local green building regulations has been extraordinary and has led to interesting regulatory experimentation. Many state and local governments begin by mandating green building practices for public buildings. Some local governments have expanded that mandate to require green building practices for both public and private development, often for new construction over a certain square footage. Others have sought to encourage green building practices through financial incentives. Still others have used non-financial incentives like expedited permitting or increased density to encourage the development of green buildings.

Mandatory green building requirements work very much like traditional "command and control" environmental regulations, the Clean Water Act and the Clean Air Act being preeminent examples. Direct regulation may mandate specific green building practices or the achievement of a green building standard such as the USGBCs Leadership in Energy and Environmental Design (LEED) standard.3 Green building codes such as CALGreen, discussed in detail below, fall into this regulatory category.

Financial incentives have taken the form of direct grants from government entities,4 tax incentives, and rebates.5 Other forms of financial incentives for green buildings are rebates of the typical government-related costs of building, such as application fees.6

Local governments are also experimenting with nonfinancial incentives for green building practices. These incentives are often attractive to municipalities because they do not deplete public finances directly and are therefore easier to get passed in difficult financial times or with teluctant constituencies.7 Examples of nonfinancial incentives include increased floor-to-area ratios for green buildings**8** and expedited permitting processes**.**

#### It’s an impossible neg burden

Edwards 80

JUDGES: Before EDWARDS, LEAR and WATKINS, JJ. OPINION BY: EDWARDS

AYOU BOUILLON CORPORATION, ET AL. v. ATLANTIC RICHFIELD COMPANY

No. 13229 Court of Appeal of Louisiana, First Circuit 385 So. 2d 834; 1980 La. App. LEXIS 3972; 67 Oil & Gas Rep. 240 May 5, 1980 PRIOR HISTORY: [\*\*1] ON APPEAL FROM THE 18TH JUDICIAL DISTRICT COURT, PARISH OF IBERVILLE, HONORABLE EDWARD N. ENGOLIO, JUDGE.

Comprehending the applicability and complexity of federal **energy regulation** necessitates both a stroll down the tortuous legislative path and a review of legal challenges **so numerous** as to require the establishment of a Temporary Emergency Court of Appeals.

#### Regulations add 5 million research hours

Tugwell 88

The Energy Crisis and the American Political Economy: Politics and Markets in the Management of Natural Resources

Previously, Dr. Tugwell was the executive director of the Heinz Endowments of Pittsburgh, the founder and president of the Environment Enterprises Assistance Fund, and as a senior consultant for International Projects and Programs at PG&E Enterprises. He served as a deputy assistant administrator at USAID (1980-1981) and as a senior analyst for the energy program at the U.S. Office of Technology Assessment (1979-1980). Dr. Tugwell was also a professor at Pomona College and an adjunct distinguished professor at the Heinz School of Carnegie Mellon University. Additionally, he serves on the Advisory Board and International Committee of the American Council on Renewable Energy and on the Joint Board of Councilors of the China-U.S. Center for Sustainable Development. He also serves on the Board of Eucord (European Cooperative for International Development). Dr. Tugwell received a PhD in political science from Columbia University.

Finally, administering energy regulations proved a costly and cumbersome endeavor, exacting a price all citizens had to pay. As the energy specialist Paul MacAvoy has noted: "More than 300,000 firms were required to respond to controls, ranging from the three dozen major refining companies to a quarter of a million retailers of petroleum products. The respondents had to file more than half a million reports each year, which probably took more than five mil- lion man-hours to prepare, at an estimated cost alone of $80 mil- lion."64 To these expenditures must be added the additional costs to the government of collecting and processing these reports, monitor- ing compliance, and managing the complex process associated with setting forth new regulations and adjudicating disputes. All to- gether, it seems likely that the administrative costs, private and public, directly attributable to the regulatory process also exceeded $1 billion a year from 1974 to 1980.^

# 1nr

### Overview

**Outweighs on magnitude – magnitude 1st – that’s in the 2NC – conceded the oil shocks impact – Hagel nomination avoids Iran invasion causing oil shocks and wars that cause extinction**

**Turns case – econ decline no investment in passive solar**

#### Decline turns the case – racism and inequality

**Blackwill 2009** – former US ambassador to India and US National Security Council Deputy for Iraq, former dean of the Kennedy School of Government at Harvard (Robert D., RAND, “The Geopolitical Consequences of the World Economic Recession—A Caution”, http://www.rand.org/pubs/occasional\_papers/2009/RAND\_OP275.pdf, WEA)

So what are the likely effects of the global economic problem so far?9 It will cause the fall of some governments (Iceland, Latvia, Estonia, Hungary, and the Czech Republic, with more to come). It will lead to more poverty, more disease, more crime, more migration, and more Third World military conflict.10 It will trigger street violence in numerous countries, as has already occurred in Greece, China, Haiti, Latvia, Bolivia, Bulgaria, Russia, Italy, Ireland, Iceland, and Lithuania. It will increase Third World questioning of the Western economic model—Luis de Silva, President of Brazil, has stunningly asserted that “This crisis was caused by the irrational behavior of white people with blue eyes, who before the crisis appeared to know everything and now demonstrate that they know nothing.”11

#### Econ = Poverty and inequality

**Vasquez**, director of the Project on Global Economic Liberty at the Cato Institute, **2001** [Ian, Ending Mass Poverty, September, Cato Institute, http://www.cato.org/research/articles/vas-0109.html]

Economic growth is the "only path to end mass poverty," says economist Ian Vásquez, who argues that redistribution or traditional poverty reduction programs have done little to relieve poverty. Vásquez writes that the higher the degree of economic freedom -- which consists of personal choice, protection of private property, and freedom of exchange -- the greater the reduction in poverty. Extending the system of property rights protection to include the property of poor people would be one of the most important poverty reduction strategies a nation could take, he says.

The historical record is clear: the single, most effective way to reduce world poverty is economic growth. Western countries began discovering this around 1820 when they broke with the historical norm of low growth and initiated an era of dramatic advances in material well-being. Living standards tripled in Europe and quadrupled in the United States in that century, improving at an even faster pace in the next 100 years. Economic growth thus eliminated mass poverty in what is today considered the developed world. Taking the long view, growth has also reduced poverty in other parts of the world: in 1820, about 75 percent of humanity lived on less than a dollar per day; today about 20 percent live under that amount.

Even a short-term view confirms that the recent acceleration of growth in many developing countries has reduced poverty, measured the same way. In the past 10 years, the percentage of poor people in the developing world fell from 29 to 24 percent. Despite that progress, however, the number of poor people has remained stubbornly high at around 1,200 million. And geographically, reductions in poverty have been uneven.

### AT: Guns

#### Gun control will be delayed and wont cost capital – different subcommittees

Daniel González and Dan Nowicki (writer for The Republic, Arizona news publication) January 4, 2013 “‘Cliff’ fight, gun control pushing immigration reform out of spotlight” http://www.azcentral.com/news/politics/articles/20130103immigration-reform-at-crossroads.html

Sen. Jeff Flake, R-Ariz., who took office Thursday, said he believes the bipartisan urgency to pass immigration reform that emerged after the election is still there. “I think everyone recognizes that it has to be done this year,” said Flake, who is part of a bipartisan group of senators who have already started laying the groundwork for an immigration bill. “You can’t wait on an issue like this until an election year, and it really has to be done, or started, in the first part of the year,” he said. “I do sense that on both sides of the aisle there is a willingness, for different reasons, to get it done and get it behind us.” Instead, Flake expressed skepticism about Obama and the Democrats’ commitment to gun-control measures. “I don’t know how much they’ll do there, I really don’t,” Flake said. “I can’t imagine that’s going to consume a lot of capital or a lot of time for very long.” Advocacy campaigns Immigrant advocates, meanwhile, are determined not to let immigration reform get pushed aside again. Several groups, including the League of United Latin American Citizens, have launched campaigns to keep the pressure on Obama to take the lead on immigration reform. “I don’t think we can go backwards,” said Petra Falcon, executive director of Promise Arizona, a group that worked to increase the number of Latino voters in Arizona. “I think we are at a different place, and I think a lot of that has to do with the results of the election.” But they admit that more time and energy spent by Obama and Congress on solving issues such as the fiscal cliff and gun control diminish the chances of passing immigration reform. Brent Wilkes, national executive director of LULAC, is hopeful Congress will introduce a comprehensive immigration bill by March or April and vote on it by August. After that, lawmakers facing midterm elections in 2014 will be less willing to take on controversial issues such as immigration reform out of fear their vote could hurt their chances of re-election, he said. After the midterm election, the 2016 presidential election immediately will begin to heat up, and by then, the impact of the 2012 Latino vote may have worn off, he said. Although still optimistic that Obama and Congress will move forward on immigration reform early this year, Wilkes said he is concerned that the protracted battle over spending cuts and the debt ceiling will divert the president’s attention from immigration reform. A drawn-out debate over spending cuts could also divert the attention of pro-comprehensive-reform advocacy groups like LULAC that don’t want to see spending cuts to domestic programs that help Hispanic families, he said. Wilkes said he is less worried about gun control because that issue will have to travel through different subcommittees from immigration reform. He also thinks gun-control legislation won’t be introduced until next year..”

### Thumperz

#### Hagel confirmation is at the top of the docket – PC is the ONLY way he gets nominated

Jennifer Rubin (writer for the Washington Post) January 7, 2013 “Topsy-turvy Hagel politics” http://www.washingtonpost.com/blogs/right-turn/wp/2013/01/07/topsy-turvy-hagel-politics/

The ironies (or hypocrisies? betrayals?) abound. The question is what happens next. Plainly, a number of Senate Democrats do not want to vote for Hagel, and their votes combined with GOP votes could defeat him on an up-or-down vote. Will Hagel make it to the confirmation hearing, to be shredded by disgusted Republicans and nervous Democrats, or like Harriet Miers, must excuses be made for him to depart before much damage is done? Politico quotes a Senate Democratic aide: “It is a strange signal for the White House to send that they are willing to fight for Hagel but not Rice. Democrats are not currently unified behind Hagel, and it will take some real work by the administration to get them there, if it’s even possible.” Meanwhile, the politics become fascinating. On the Democratic side there is no reason at all other than pressure from the White House to support Hagel. In fact political opponents, especially in 2014 Senate races in swing and red states, will be happy to use any support for Hagel as fodder. Democrats’ other agenda items (e.g., gun control) and their fight to prevent entitlement reform will get sidetracked, at least for some time, to engage in a high-visibility fight none of them want.

#### Hagel nomination will suck all of the oxygen out of the Senate – it will crowd out other issues

Jennifer Rubin (writer for the Washington Post) January 6, 2013 “The Hagel litmus test” http://www.washingtonpost.com/blogs/right-turn/wp/2013/01/06/the-hagel-litmus-test/

Unlike the Democratic Party, support for the U.S.-Israel relationship has become a positive litmus test for national office in the GOP, in large part due to the intensely pro-Israel Christian conservatives. The opposition to Hagel will be fierce. At the very least the battle will potentially suck up much of the oxygen in the Senate, put other issues like gun control on hold and threaten to become the blockbuster hearing of the Obama presidency as the Judge Robert Bork hearing was in the Reagan administration.

### AT: Link Turn

#### It’s a politically charged issue

Bradsher 11 (Keith – NYT, Nov 9, “Trade War in Solar Takes Shape,” http://www.nytimes.com/2011/11/10/business/global/us-and-china-on-brink-of-trade-war-over-solar-power-industry.html?pagewanted=all)

Solar power is a politically charged issue in Washington, in part because of the bankruptcy this summer of a solar panel maker, Solyndra, after it had received more than $500 million in federal loan guarantees.

#### **So do polls**

Lacey 5/24/12 (Stephen Lacey is a reporter/blogger for Climate Progress, where he writes on clean energy policy, technologies, and finance, “Pew Poll Finds Clean Energy Is A Political Wedge Issue for Republicans,” <http://www.pdacommunity.org/issues/stop-global-warming/1688-pew-poll-finds-clean-energy-is-a-political-wedge-issue-for-republicans>) \*poll from pew research center

The poll illustrates how clean energy has become a wedge issue among Republicans moving into the presidential election. This is precisely what has happened on climate (see “Independents, Other Republicans Split With Tea-Party Extremists on Global Warming“).

#### GOP hate clean energy policies as much as most hate Kanye West

Harder 3/22/12 (Amy Harder reports on energy and the environment for National Journal and moderates an expert blog on the topic as well. “Public Wary of Sequestration, Not Clean Energy,” <http://www.nationaljournal.com/daily/public-wary-of-sequestration-not-clean-energy-20120522>)

In a visit on Thursday to Iowa—the country’s second-largest wind-producing state after Texas—President Obama will urge Congress to extend a key production tax credit for wind and a clean-energy manufacturing credit. Congress is unlikely to consider these tax credits until year’s end when lawmakers take up the annual “tax-extenders” package. Whether congressional supporters of the tax credits, including senior Republican Sen. Chuck Grassley of Iowa, can muster enough support to extend the credits remains uncertain and likely depends on the outcome of the elections. Action this year on a clean-energy standard measure introduced by retiring Senate Energy and Natural Resources Chairman Jeff Bingaman, D-N.M., is very unlikely **no matter how Election Day goes**.

While support for these clean-energy policies was predictably stronger among Democrats and independents than Republicans, respondents identifying with the GOP were split. Almost half of Republicans said they support extending clean-energy tax credits (48 percent) and enacting a clean-energy standard (47 percent). That support is not reflected in Washington, where most congressional **Republicans shun clean-energy** policies, especially an energy mandate, in favor of less government involvement and reducing the deficit.

#### **Costs mad pc**

AP 6/13/12 (Associated Press, “Republicans, Democrats at odds on energy issues,” http://www.nbc11news.com/politics/headlines/Republicans\_Democrats\_at\_odds\_on\_energy\_issues\_158928675.html?storySection=story)

Republicans and Democrats seem to be living on different planets when it comes to how to meet U.S. energy needs. A new survey by The Associated Press-NORC Center for Public Affairs Research of public attitudes about energy shows that Republicans in the poll overwhelmingly push for more oil drilling, while Democrats back conservation and new sources such as wind and solar power. That reflects the polarized positions on energy that have divided Congress and emerged in the presidential campaign. The poll shows that majorities in both parties say energy an important issue. But political party identification is closely tied to people's perceptions of the causes of energy problems and possible solutions. No other demographic factor is as consistently associated with opinions on energy.

### at: intrinsicness

#### Anti-topical—the bill IS an opportunity cost since they make it politically impossible, fiat-ing or assuming passage of an extra-topical item crushes makes them a moving target.

#### Neg ground—any line they draw is self-serving and hoses generic strategies that we need even if not perfectly specific.

#### No logic DA—you’re a citizen evaluating consequences of topical plans, their claim assumes you control the whole government. We test their internal links with counterplans because we aren’t bound by the rez and it’s reciprocal with their infinite topical actions—giving them an extra measure of control isn’t valid and whatever residual logic argument they have is outweighed by debate practicality.

### at: fiat solves

#### Hoses ground—all core generics are based on some facet of implementation, politics, spending, tradeoff are key.

#### No it doesn’t—the immediate post-implementation setting doesn’t shield blame, people would backlash for not debating the plan or the debates over the plan would also be immediate

### AT: Agencies Shield

#### Makes them not topical – voting issue for jurisdiction

#### “The” means all parts

Encarta 9 (World English Dictionary, “The”, http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861719495)

2. indicating generic class: used to refer to a person or thing considered generically or universally  
bullettransExercise is good for the heart.  
bullettransShe played the violin.  
bullettransThe dog is a loyal pet.

#### “Government” is all three branches

Black’s Law 90 (Dictionary, p. 695)

“[*Government*] In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.”

#### 2ac Clarification is a voting issue – should have been in the 1ac, their green evidence says that they could do the plan not that they would do the plan – normal means debates are inhibit so the only predictable standard is holding them to USFG in the plan text which is key to any and all negative ground.

#### Agencies don’t shield and no risk of a turn---Obama is velcro and will only get blamed---no credit

**Nicholas & Hook 10** Peter and Janet, Staff Writers---LA Times, “Obama the Velcro president”, LA Times, 7-30, http://articles.latimes.com/2010/jul/30/nation/la-na-velcro-presidency-20100730/3

If Ronald Reagan was the classic Teflon president, Barack **Obama is made of Velcro.¶** Through two terms, Reagan eluded much of the responsibility for recession and foreign policy scandal. In less than two years, Obama has become ensnared in blame.¶ Hoping to better insulate Obama, White House aides have sought to give other Cabinet officials a higher profile and additional public exposure. They are also crafting new ways to explain the president's policies to a skeptical public.¶ But Obama remains **the colossus of his administration** — to a point where trouble anywhere in the world is often his to solve.¶ The president is on the hook to repair the Gulf Coast oil spill disaster, stabilize Afghanistan, help fix Greece's ailing economy and do right by Shirley Sherrod, the Agriculture Department official fired as a result of a misleading fragment of videotape¶ What's not sticking to Obama is a legislative track record that his recent predecessors might envy. Political dividends from passage of a healthcare overhaul or a financial regulatory bill have been fleeting.¶ Instead, voters are measuring his presidency by a more immediate yardstick: Is he creating enough jobs? So far the verdict is no, and that has taken a toll on Obama's approval ratings. Only 46% approve of Obama's job performance, compared with 47% who disapprove, according to Gallup's daily tracking poll.¶ "I think the accomplishments are very significant, but I think most people would look at this and say, 'What was the plan for jobs?' " said Sen. Byron L. Dorgan (D-N.D.). "The agenda he's pushed here has been a very important agenda, but it hasn't translated into dinner table conversations."¶ Reagan was able to glide past controversies with his popularity largely intact. He maintained his affable persona as a small-government advocate while seeming above the fray in his own administration.¶ Reagan was untarnished by such calamities as the 1983 terrorist bombing of the Marines stationed in Beirut and scandals involving members of his administration. In the 1986 Iran-Contra affair, most of the blame fell on lieutenants.¶ Obama lately has tried to rip off the Velcro veneer. In a revealing moment during the oil spill crisis, he reminded Americans that his powers aren't "limitless." He told residents in Grand Isle, La., that he is a flesh-and-blood president, not a comic-book superhero able to dive to the bottom of the sea and plug the hole.¶ "I can't suck it up with a straw," he said.¶ But as a candidate in 2008, he set sky-high expectations about what he could achieve and what government could accomplish.¶ Clinching the Democratic nomination two years ago, Obama described the moment as an epic breakthrough when "we began to provide care for the sick and good jobs to the jobless" and "when the rise of the oceans began to slow and our planet began to heal."¶ Those towering goals remain a long way off. And most people would have preferred to see Obama focus more narrowly on the "good jobs" part of the promise.¶ A recent Gallup poll showed that 53% of the population rated unemployment and the economy as the nation's most important problem. By contrast, only 7% cited healthcare — a single-minded focus of the White House for a full year.¶ At every turn, Obama makes the argument that he has improved lives in concrete ways.¶ Without the steps he took, he says, the economy would be in worse shape and more people would be out of work. There's evidence to support that. Two economists, Mark Zandi and Alan Blinder, reported recently that without the stimulus and other measures, gross domestic product would be about 6.5% lower.¶ Yet, Americans aren't apt to cheer when something bad doesn't materialize.¶ Unemployment has been rising — from 7.7% when Obama took office, to 9.5%. Last month, more than 2 million homes in the U.S. were in various stages of foreclosure — up from 1.7 million when Obama was sworn in.¶ "Folks just aren't in a mood to hand out gold stars when unemployment is hovering around 10%," said Paul Begala, a Democratic pundit.¶ **Insulating the president from bad news has proved impossible**. Other White Houses have tried doing so with more success. Reagan's Cabinet officials often took the blame, shielding the boss.¶ But the Obama administration is about one man. Obama is the White House's chief spokesman, policy pitchman, fundraiser and negotiator. **No Cabinet secretary has emerged as an adequate surrogate**. Treasury Secretary Timothy F. Geithner is seen as a tepid public speaker; Energy Secretary Steven Chu is prone to long, wonky digressions and has rarely gone before the cameras during an oil spill crisis that he is working to end.¶ So, more falls to Obama, reinforcing the Velcro effect: **Everything sticks to him**. He has opined on virtually everything in the hundreds of public statements he has made: nuclear arms treaties, basketball star LeBron James' career plans; Chelsea Clinton's wedding.¶ Few audiences are off-limits. On Wednesday, he taped a spot on ABC's "The View," drawing a rebuke from Democratic Pennsylvania Gov. Edward G. Rendell, who deemed the appearance unworthy of the presidency during tough times.¶ "Stylistically he creates some of those problems," Eddie Mahe, a Republican political strategist, said in an interview. "His favorite pronoun is 'I.' When you position yourself as being all things to all people, the ultimate controller and decision maker with the capacity to fix anything, you set yourself up to be blamed when it doesn't get fixed or things happen."¶ A new White House strategy is to forgo talk of big policy changes that are easy to ridicule. Instead, aides want to market policies as more digestible pieces. So, rather than tout the healthcare package as a whole, advisors will talk about smaller parts that may be more appealing and understandable — such as barring insurers from denying coverage based on preexisting conditions.¶ But at this stage, it may be late in the game to downsize either the president or his agenda.

#### Requires Congressional authority

**Lovell 2k** – Assistant Professor of Government, College of William and Mary (George, 17 Const. Commentary 79, AG)

An initial problem with this complaint is that it is not entirely accurate. Even in a world with delegation, voters can usually trace regulatory decisions to "yes" or "no" votes cast by their representatives in Congress. It is true that members of Congress do not cast "yes" or "no" votes on particular rules created by agencies, but they do quite often need to go on record with "yes" or "no" votes that make agency activities possible. Legislators must cast votes to establish executive branch agencies and to give those agencies the authority to make regulatory decisions. The democratic controls created by such votes weaken over time. (Most of the voters who voted for the legislators who passed the Agricultural Adjustment Act are now dead). But members of Congress need to take at least one vote per year (on the relevant appropriations bill) in order for any regulatory program to continue, and circumstances sometimes force members to cast additional votes on particular programs. Since no regulatory program can operate without being created and continually authorized by Congress, there is nothing about delegation that prevents an unhappy electorate from holding members of Congress accountable for regulatory power exercised by the agencies. Opponents of incumbents are certainly free to make such votes an issue in the next campaign, and they sometimes do. Representative George Nethercutt (R-Washington) recently found this out the hard way from an ad sponsored by some of his political opponents. Nethercutt probably did not know that he had voted for the Endangered [\*91] Species Act twelve times until he saw an ad that recounted his votes on various appropriations and authorizations items. 21

#### Obama will be blamed for agency action

Wallison 3 Resident Fellow @ A.E.I. “A Power Shift No One Noticed”, AEI Online, 1-1, http://www.aei.org/publications/pubID.15652/pub\_detail.asp

To be sure, the president had appointed the chairman and the other members of the SEC, but that in itself would not make him blameworthy unless one assumed that he was also directly responsible for how the SEC acted before, and after, the scandals erupted. That is the nub of the important but largely unnoticed change that has occurred: the unchallenged assumption on the part of all parties--in Congress, in the media, among the public, and even in the White House itself--that the president was **fully accountable for an agency** that has always been viewed as independent.¶ The significance of this change in the grand government scheme of things can hardly be overstated. Without legislation or judicial decision, the president has suddenly become **electorally responsible** for the decisions of bodies that were considered to be within the special purview of Congress, susceptible only to congressional policy direction. Of course, this functional revolution did not give the president any new powers with respect to the independent regulatory agencies. But the die is now cast. The way the American people look at the president's responsibilities apparently is changing, and that will affect the attitude of Congress. If the American people believe that the president should be responsible for the actions of the SEC, it will be **difficult to convince them otherwise**. Significantly, since Harvey Pitt's resignation as SEC chairman in November, the media have routinely referred to the president's choice to head the SEC, investment banker William H. Donaldson, as a member of the Bush "economic team."

#### Every SINGLE MOVE Obama makes is hotly contested and intensely debated—there’s only risk of a link

**TVNZ 10/8** (Jon Johansson, 10/8/09, "A presidential chess game", http://tvnz.co.nz/world-news/presidential-chess-game-3060277)

While only his most serious chess matches have been mentioned here, numerous other games are continually taking shape, demanding his study and his response. Every single move Obama makes, in whichever game he plays, is hotly contested and intensely debated. There is no let up for him.

#### Obama will take the fall

**Politico, 1-7-10**, p. http://www.politico.com/news/stories/0110/31259.html

Taking a decidedly different tack from his predecessor in the face of a government failure, President Barack Obama on Thursday took the blame for shortcomings that led to a failed Christmas Day bombing plot, saying, “The buck stops with me.”

Aides to Obama signaled that he was consciously seeking to be the anti-Bush, airing the administration’s dirty laundry and stepping up to take his share of the responsibility.

“The president also wanted to do something, I think, unusual today,” National Security Council Chief of Staff Denis McDonough said during a webchat after Obama’s speech. “Not only was this a very quick accounting, not only did the president accept responsibility for it, but the president also wanted to do this as transparently as possible.”

Quick, transparent, willing to take the blame — all things Obama has said President George W. Bush was not.

### AT: Email

#### Email ev bad—

A) Moral hazard—enables cherry picking, ignoring unfavorable responses, and fishing for answers from authors who don’t know competitive stakes of responding. Can’t know about responses they don’t publish

Our interpretation is you can email authors for research advice and input, but those emails themselves can’t be read in round as evidence.

D) This isn’t an ethics argument but you should reject the team—calling them out shouldn’t be a strategic liability and the time investment doesn’t square with dismissing one card but rather creates a no cost option.

PC key evidence above – just says that it’s dealt with by committee staff – plans not congress but agencies who Obama takes credit for and GOP ties to them so the card doesn’t apply to them

#### Keeping democrats in line is key

Scott Wong and Manu Raju (writers for Politico) January 6, 2013 “Chuck Hagel takes fire from Capitol Hill” http://www.politico.com/story/2013/01/chuck-hagel-takes-fire-from-capitol-hill-85805.html?hp=t1

Hagel will have an easier time winning confirmation if all Senate Democrats unite to support him. Democrats expanded their majority by two seats in the November election, and hold a 55-to-45 advantage over Republicans. In that scenario, the White House would need just five Republican votes to defeat a GOP filibuster and confirm him. And it would be rare for Republicans to reject the president’s pick for defense secretary — especially a Republican — just a month after voters handed him a second term. Plus, there are a number of Republicans who are quick to give deference to a president to choose members of his own Cabinet.

#### Every ounce of Obama’s political capital is key to getting Hagel across the finish line

Scott Wong and Manu Raju (writers for Politico) January 6, 2013 “Chuck Hagel takes fire from Capitol Hill” http://www.politico.com/story/2013/01/chuck-hagel-takes-fire-from-capitol-hill-85805.html?hp=t1

And despite heaping praise on Hagel when he retired from the Senate after the 2008 elections, Minority Leader Mitch McConnell (R-Ky.) on Sunday failed to extend an olive branch to the Nebraska Republican, instead suggesting there would be “tough questions” ahead. Even Senate Democrats are privately signaling they‘re not yet on board with the Hagel pick, and that the White House has a lot of work to do to get him across the finish line. The nomination comes at a tricky time for the White House — just as the fights over raising the debt ceiling and government appropriations are set to begin. And it could put a number of at-risk or pro-Israel Democrats in tough political spots — especially if the nomination fight grows even more contentious. Democrats are also scratching their heads over why Obama appears willing to go to the mat for Hagel, while abandoning his push for a close friend and member of his inner circle, U.N. Ambassador Susan Rice, to become secretary of state. Rice, an unabashed Democrat, abandoned her bid after withering GOP criticism over the deadly attacks on the U.S. consulate in Libya. Though different in substance, the controversy over Rice’s remarks is not unlike the current pushback over Hagel’s past foreign policy positions and controversial remarks. “It is a strange signal for the White House to send that they are willing to fight for Hagel but not Rice,” one Senate Democratic aide said Sunday. “Democrats are not currently unified behind Hagel, and it will take some real work by the administration to get them there, if it’s even possible.” Senior Republicans agreed, noting that after Hagel infuriated Republicans and Democrats alike over the years, there isn’t a natural base for him. “I can’t imagine why [Obama] would choose to burn his political capital on this nomination. For what? There is no constituency for Chuck Hagel,” said one senior GOP aide. “Obama will expend every ounce of political capital he has to get him across the finish line. Dems will hate this.”

### AT: PC Not Key

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

**Simes and Saunders 2010** – \*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, WEA)

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: Framing

#### A. Ignoring political tradeoffs is totalitarian

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(*Arendt and Heidegger: The Fate of the Political*, p. 246-7)

Arendt appropriates Heidegger’s genealogy of the technical sense of action in order to highlight the tradition’s persistent attempt to overcome plurality, the politically most relevant expression of the finitude of the human condition. Subjecting *praxis* to the rule of an end-representing reason makes it possible to exchange the nonsovereign freedom of **plural political actors** for the **command** **and** **control** exercised by the artisan. The Platonic “translation” of acting into the idiom of making established the pattern for deriving action from first philosophy or theory, a pattern that offered an escape from the irreducible relativity which besets the realm of human affairs. The substitution of making for acting initiates a paradigm of correspondence that, as Lyotard notes, delimits the Western tradition of political philosophy. Within the tropological space opened by this substitution, politics is viewed as the means or techné by which “the ‘fashioning’ of **a people according to the** idea or **ideal** of just being-together” is accomplished.27 So long as political philosophy sees its task as the articulation of first principles with which actions, peoples, and institutions must be brought into accord, it reiterates the Platonic schema; moreover, it perpetuates the idea that politics resembles a plastic art. Arendt’s critique of the “Platonic” tradition reveals the drive to conflate political and artistic categories at the core of Western political theory, underlining the stubborn persistence of the state as artwork/politics as *techné* tropes. The strength of these figures is measured by the fact that the closure of the tradition barely shakes the logic of justification institutionalized by the Platonic separation of theory and practice. Western political theory, as Schürmann points out, has always demanded that action be grounded in some extrapolitical first (the cosmic order, natural or divine hierarchy, Reason and natural right, History, the greatest good for the greatest number, the emancipatory interest of the discursive community).28 As a result, it never really abandons the view that politics is a kind of **plastic art**, the “fashioning,” more or less **violent**, of a people in conformity with an ideal. The persistence of this trope is explained by its **efficacy for** **reducing plurality and difference**, and by its ability to represent violence and coercive power as “right.”29 Arendt’s theory of nonsovereign, agonistic action smashes this figure, breaking the circuit of justification through the liberation of action from the rule of grounding principles and pregiven ends.30 The essentially normative function of political theory – that is, the theoretical specification of the conditions for the legitimate exercise of power – is suspended.31 In its place Arendt develops a phenomenology of action and a narrative approach to the closure of the public realm in modernity, an approach designed to keep the memory of an agonistic public sphere alive. With this bracketing of the legitimation problematic, a new appreciation of spaces and practices not typically viewed as political becomes possible.32 Moreover, the Arendtian liberation of action throws the antipolitical, not to say the *inhuman*, consequences of the tradition’s conflation of artistic and political categories into sharp relief. The teleocratic concept of action may be seen as the primary and most enduring expression of this conflation. With the collapse of transcendental grounds for the political, the logic of correspondence and justification built into this concept turns inward. The result is that the fashioning or “fictioning” of the community in conformity with an ideal of Justice is transformed into an exercise in self-production.33 And with this transformation, the threshold of modernity is traced. We can see this transformation at work in the emergence of the Hobbesian problematic: the construction of the “Leviathan” needed to overawe its subjects is the work of those very subjects, in their “natural,” presubjected, and radically dissociated state.14 The example of Hobbes clearly demonstrates how, once the “art” of politics is deprived of its natural ground (once *techné* can no longer be seen as the completion or accomplishment of *physis*), a paradoxical and impossible logic asserts itself. The conundrum is simply put: the people, who do not yet exist *as a people*, must somehow always already be enough of a subject in order to author or fashion themselves *qua* community. The answers to this riddle proposed by the social contract tradition – Hobbes’s pact of association, which is simultaneously a transfer of power to a designated sovereign; Locke’s presupposition of what Laslett has called “natural political virtue”; the Rousseauian mechanism of the total alienation of individual rights and powers by which a communal, sovereign power is formed – have all been unconvincing, to say the least.35 Romanticism can be seen as the attempt to escape this paradox by radicalizing it. Instituting what Jean-Luc nancy has called an “immanentist” logic of communal self-formation, romanticism elides the distinction between process and end: the subject is redefined as work in the double sense of self-formative activity *and* product.36 As Philippe Lacoue-Labarthe notes, in the romantic vision the community at work creates and works *itself*, thereby accomplishing the “subjective process *par excellence*, the process of self-formation and self-production.”37 The aim of the community of beings becomes “in essence to produce their own essence as community.”38 With this move, a peculiarly *modern* version of the traditional conflation of art and politics is created. The *organicity* of the political, origincally laid down by Plato’s *Republic*, takes a new and extreme form: the figure of the subject who is simultaneously artist *and* work absorbs that of the aesthetically integrated state. This subjectivization of the state as artwork trope culminates in the **totalitarian** **will** **to self-effectuation**: the will to the self-creation of a people characterized by full actualization, complete self-presence.39 The only community capable of achieving such self-presence is one from which plurality, difference, mediation, and alienation have been **expunged**: a community, in other words, that is not a *political* community at all.

#### Ignoring tradeoffs is unrealistic.

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(*Ethics and International Affairs* 13.1, “Principles, Politics, and Humanitarian Action”)

However, if impacts beyond the immediate intervention are as or more important than the immediate relief of suffering, then a painful process of questioning should begin. Classicists are **obliged** to take adequately into account the results of the **realpolitik calculations** by states, factional politics within war zones and **partisan politics** in donor countries, and outcomes of international **public policy debates**. Honest questions should be asked about engagement and disengagement. Rushing immediately to the scene of a disaster is not preordained. Doing nothing is an option. Reflections and not reflexes are required because, in David Riefl’s words, “despite the best intentions of aid workers, and at times because of them, they become logisticians in the war efforts of warlords, fundamentalists, gangsters, and ethnic cleansers. “4\* The 1998 background document for the second off-the-record Wolfsberg Humanitarian Forum organized by the ICRC was less poignant but similar in its conclusion: “Aid in complex emergencies is always determined by a highly politicized context and has political implications itself, whether as a direct consequence of its provision or by way of intentional or unintentional side-effects.”43 The “good Samaritan” figures prominently in ICRC documentation, and many humanitarians agree implicitly or explicitly with Sommaruga’s biblical interpretation and his perennial praise for apolitical humanitarianism as an “act of charity. “44Paul’s First Letter to the Corinthians praises charity as the greatest of virtues, but John Hutchinson has criticized the “champions of charity” on the grounds that they helped make war more palatable.45 In light of substantial evidence of the counterproductive effects of wellintentioned humanitarian action, there are still other reasons to question visceral charity. Altruism should infuse debate but not constitute policy. It is **impermissible** to cede to virtue if it hinders rather than helps a political solution, leads to **more violence and conflict**, supports unduly the growth of a war economy, or undermines local coping capacities. Classical humanitarianism may seem unequivocally noble, but counterproductive efforts are uncharitable. **Benign motivations are insufficient if the results are dreadful**—just as selfish motivations are sufficient if the results are beneficial. Alain Destexhe, former secretary-general of the international office of MSF and now president of the International Crisis Group and member of the Belgian Senate, argues: “Humanitarian action is noble when coupled with political action and justice. Without them, it is **doomed to failure** and . . . a **conscience-salving gimmick**. “46