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#### Secrecy pervades the history of nuclear development- It is used by the nuclear industry and NRC to cloak radioactive environmental racism- Plants are intentionally sited in poor, black communities and the truth about devastating health and environmental effects is deemed “restricted data”

Dupre 2011 (Deborah Dupre, former consultant for the United Nations, holds American and Australian science and education graduate degrees and has thirty years human rights, environmental and peace activism experience, September 14, 2011, “Obama's dirtiest secret exposed: Plutonium 'Bomb Plant,' 'Green future',” Examiner, http://www.examiner.com/article/obama-s-dirtiest-secret-exposed-plutonium-bomb-plant-green-future)

Nuclear Racism "In the 1940s, during the Manhattan Project, when the enormous problem of high-level nuclear waste became apparent, it was deemed a national secret and kept from the public for decades. White workers ordered African Americans to deal with this deadly mess, and disposal involved dumping plutonium straight into the soil."¶ Among the long list of other shocking revelations Trento and his team will be exposing in the forthcoming "The Bomb Plant" series according to his introduction of series, he says, "You will meet the Lindsay family whose father was recruited from his job as a segregated school principal to commute several hours from Greenwood, South Carolina, for a chance to help his country and receive a reliable paycheck to raise his ten children."¶ The Lindsay's are among those Georgia WAND has reached out to assist, as shown in the photo on the left. Trento furthers about the Lindsay's:¶ "You will learn how Mr. Lindsay, like thousands of other African American workers, was given the most dangerous jobs and ordered to throw his dosimeter, that measured radiation exposure, in a bucket before going into high risk areas.¶ "As months turned into years, Mr. Lindsay got sicker and sicker. He brought the radiation home on his clothing. His children were exposed playing with their dad or sitting on his lap. His wife was exposed washing the clothes. While the white employees had a nuclear laundry for their work clothes, the African Americans were not so fortunate.¶ "Ironically, the Lindsays thought they were lucky because the SRS management encouraged African American employees to hunt and fish on the site and pick from the old orchards that remained from the five towns that were lost to the bomb plant when it took over the land. The radioactive fruit, vegetables and fish and game were shared with friends and relatives, spreading radiation throughout the African American community.¶ "Finally, one awful day, Mr. Lindsay was driven home to die. The radiation he brought home would reach from his grave to take his wife and then child after child over the decades. "You will meet the first African American college graduates to work at the bomb plant and learn how they spent their careers not getting promotions and not even being told what was happening to their fellow African Americans at the site. You will learn about the soaring rates of cancer among African Americans who live downriver from SRS. At the height of production at SRS, black towns along the Savannah River were not notified when radiation was being released into the river.¶ "You will see how SRS poisons its workers, practices racial discrimination and ravages the environment. Democratic and Republican representatives alike ignore the environmental concerns and tout the jobs and money, as their predecessors did for sixty years."¶ In June, Doctor Mark Sircus released a report "concurring with a host of scientists and other doctors evidencing that people of Japan and United States have been subjected to dangerous levels of radiation since Fukushima nuclear plant meltdowns, and also subjected to a tight cover-up by authorities and media, the result of which will be millions of baby deaths and new cancer victims," this writer reported.¶ By the time of Dr. Sircus' report, Japanese and American children were are already suffering with symptoms that appear to be first signs of Radiation Sickness. ("Prestigious doctor: US nuclear 'Baby valley of death,' Millions to die (video)", Dupré, D., Examiner, June 20, 2011)¶ Fallout levels have increased dramatically since then, yet the media blackout on this news remains as dark as hours after the Japanese catastrophe.¶ Still, the United States fails in the new era of renewable energy and is instead, wittingly or unwittingly, being led into a nuclear renaissance.¶ “The United States’ position as a leading destination for clean energy investment is declining because its policy framework is weak and uncertain,” said Phyllis Cuttino, director of Pew’s Clean Energy Program.¶ “We are at risk of losing even more financing to countries like China, Germany, and India, which have adopted strong policies, such as renewable energy standards, carbon reduction targets, and/or incentives for investment and production. In today’s global economic race, the United States can’t afford to be to be a follower in this sector.” ("Americans losing Green Energy Race (video)", Dupré, D. Examiner, April 12, 2011)¶ Further answering the question about why the U.S. government is not warning Americans about lethal Fukushima fallout now blanketing many parts of the nation, breathed by millions destined to meet early death because of it, Trento says that "today, largely out of public view, powerful energy and construction companies, government agencies and contractors, and politicians including President Obama are leading us to what they call the 'nuclear renaissance.'

#### This renders black communities disposable- Despite staggering rates of cancer and other radiation-related health effects DOE withholds information from and refuses to listen to communities around reactor sites- meanwhile, NRC keeps licensing more reactors

Dixon 2012 (Bruce A. Dixon, managing editor of Black Agenda Report, “Environmental racism: Is nuclear plant causing cancer for poor black residents of Shell Bluff, Ga.?,” The Grio, http://thegrio.com/2012/01/25/nuclear-plants-and-cancer-epidemics-in-a-poor-black-georgia-town-environmental-racism-in-the-21st-ce/)

Environmental racism occurs when hazardous industries and facilities are placed in and near poor, minority communities. Because the resultant pollution from such installations is a cost usually paid by the immediate environment and community affected, the fall out of environmental racism is the localization of those costs in areas with the least political clout. In 2010, President Obama supported the Department of Energy’s decision to grant $8.3 billion in conditional loan guarantees for the construction of twin nuclear reactors in Burke County, Ga. at the Vogtle plant. According to Southern Company (which is building the reactors), the creation of the nation’s first new nuclear reactors in 30 years will result in an emissions-free, jobs-creating bonanza for the poor and mostly black communities around Shell Bluff and other Burke County cities.¶ But some residents are asking, if nuclear reactors are really economic shots in the arm, why is Burke County still one of the poorest corners of the state a quarter century after Southern Company brought its first pair of local reactors online in 1987? They also want to know: If the old and new reactors will be safe, why won’t Southern Company or the federal government pay to monitor radiation levels in Burke County? And most of all, why are cancer rates more than 50 percent higher in communities near existing reactors, according to the Centers for Disease Control?¶ Trading clean energy and jobs for the health of poor black citizens without investigating the long-term effects fits the definition of environmental racism precisely.¶ “Some people did get jobs,” former Shell Bluff resident Annie Laura Stephens told theGrio, “but a lot of us got something else. We got cancer. I lost sisters, brothers and cousins to cancer, and every family I know has lost somebody to cancer.” Ms. Stephens’ complaint is echoed by many local residents.¶ Since the early 1980s, Burke County residents have experienced a veritable cancer epidemic. Located along what is already the fourth most toxic waterway in the nation, Shell Bluff is across the Savannah River from a former nuclear weapons manufacturing plant. Nearby Waynesboro residents rely on wells for bathing and drinking water, which makes them highly vulnerable to the radioactive contamination of local ground water.¶ With the two existing reactors at Vogtle, in addition to the former weapons plant (which is a Superfund toxic site), when the new reactors are completed the number of potential sources of nuclear contamination in tiny Burke county will rise to five. But no one is closely monitoring their effects on residents. This has left Shell Bluff residents to rely on anecdotal evidence.¶ “We don’t have the best educations, but we can read and we can count,” continues Stephens regarding her observations. “We know that since 2004 there has been no testing of our water, soil or air for radiation. We drink the water, we bathe in it and wash dishes and clothes in it. We know every family has cancer… and that can’t be normal, that can’t be right. We know way too many are sick with cancer and we know why. But we can’t prove it absolutely, because nobody will test the local air or water or anything else for the radiation we know is there.¶ “We’ve had meetings and protests and lots of promises and more meetings,” Stephens said. “But it seems that nobody is listening, but Jesus.” At the end of 2003, when federal funding for radiation monitoring was slated to end in the area, Georgia WAND (Womens Action for New Directions) and local residents began pushing for the Department of Energy to resume radiation monitoring around the two existing nuclear plants at Shell Bluff. They met with state officials and members of Congress over several years, but got no results. Then in 2010, WAND discovered that the DOE had falsely reported to Congress that funds has been provided to Georgia for radiation monitoring since 2004. In fact the state had received no money for this purpose since 2003.¶ After CNN investigated these circumstances at Shell Bluff and aired an April 2010 report on the cancer epidemic, federal officials pledged to reinstate funds for radiation monitoring in the area. But by August of that year, DOE was refusing to fund any proposal for this work. Since then, according to WAND director Bobbie Paul, federal officials and their contractors have stalled and made empty promises about restoring the funds. In the meantime, Southern Company has implemented plans for the two new nuclear reactors.¶ “The NRC (Nuclear Regulatory Commission) just approved construction permits for two new reactors right next to the old ones,” lamented Rev. Willy Tomlin, also of Shell Bluff. “They are making billions off us, but can’t spare a nickel to tell us why our cancer rates are higher than everybody else’s, or even to count them. A lot of people are scared. They see we’ve been having meetings and fighting this for a long while now. They see we haven’t won yet.¶ “Georgia Power is (the source of) a lot of the few jobs in this area, and people don’t want to jeopardize the little they have,” Tomlin continued. “If you speak out, you can lose your job, or your relatives can lose theirs. It happens.” Southern Company is the parent company of Georgia Power.¶ “Many people really are resigned to the cancer as the price they have to pay to keep living here,” Paul confirmed.¶ The manipulation of the local population into accepting the terms presented by Southern Company to keep their jobs goes further.¶ In early January 2012, WAND and Shell Bluff residents invited Rev. Dr. Joseph Lowery of the Georgia Coalition for the Peoples Agenda to Shell Bluff to hear the concerns of residents, and preach about the power of voting. Dr. Lowery, a former president of the Southern Christian Leadership Conference (SCLC), confided to meeting participants that he had met with a representative from Southern Company. He did not mention that the SCLC, which he headed until 1997, has a special relationship with Georgia Power. A former Georgia Power CEO has headed a SCLC $3 million building fund drive.¶ Empty public meetings. Many broken promises. Bribing black communities with jobs in exchange for sickness and death. Is this what environmental racism looks like in the 21st century? TheGrio asked Ms. Stephens why the election of a black president hasn’t protected the mostly black residents of Shell Bluff Georgia from such circumstances. Stephens answered: “We all vote. We have meetings and more meetings in between the elections. People are still getting sick and dying of cancer. This has been going on a long time. Right now, they [,Southern Company,] have the power.”¶ According to CNN, the NRC and Southern Company have stated that the plants in Burke County are safe. It is the Nuclear Regulatory Commission policy to allow plants to monitor themselves.¶ Atlanta Progressive News reports that the energy generated by the new reactors will not benefit Georgia residents, because it will be sold to Florida.

#### Public branding of nuclear energy as “safe” and “clean” obfuscates these impacts and leads to the erasure of minorities from public discourse on nuclear power- the aff is a prerequisite to any responsible deliberation about an increase in nuke energy production

Sharpe 2008 (Virginia A. Sharpe, teaches environmental philosophy and clinical ethics at Georgetown University and is on the staff of the National Center for Ethics in Health Care at the Veterans Health Administration, July-August 2008, “’Clean’ Nuclear Energy? Global Warming, Public Health, and Justice,” Hastings Center Report, Muse)

In May of this year, the governor of Maryland, the state where I live, announced his support for a new nuclear power plant to join the two existing plants on the Chesapeake Bay. "It is a huge moral challenge and it is a moral imperative," Governor O'Malley said, "given what massive new burning of coal will do to the planet if we don't develop better and cleaner technology, including safer and cleaner nuclear, which is what is . . . planned and talked about in terms of the third reactor."1¶ Governor O'Malley is right that current energy policy presents a huge moral challenge: the combustion of fossil fuels is measurably harming the world's climate, threatening species and low-lying island nations, and facilitating the spread of diseases such as malaria into ecosystems formerly inhospitable to the carrier mosquito. There are vast disparities in the use of the world's finite energy resources. Those of us in the world's richest countries consume sixty times more per capita of the world's nonrenewable energy resources—oil, coal, natural gas, uranium—than do people in the poorest countries.2 Oil production at the expense of human rights in countries such as Nigeria contributes to regional and global insecurity. Coal mining in Appalachia and in other regions of the world has devastated the landscape, polluted watersheds, and literally undermined communities whose homes and infrastructures collapse into sinkholes caused by mine subsidence. The increase in renewable energy production, particularly the shift of corn from a food crop to the raw material for a fifteen billion gallon fuel mandate in the 2007 U.S. federal energy bill, has contributed to a new global food crisis and to conversion of more and more arable land to monocrops, leading to the exhaustion of soil fertility and increasing reliance on expensive and hazardous synthetic fertilizers, pesticides, and herbicides.¶ Although high energy costs are changing behaviors across almost all socioeconomic groups these days, the biggest losers are those without the economic and political power to insulate themselves from the negative consequences of the world's energy production and consumption—not just in higher energy and food costs, but in ecosystem damage and the adverse health effects of water, air, and soil pollution. While the immediate and most acute consequences are felt by the poor, there are long-term implications for future generations of human and nonhuman species, and the earth systems on which all life depends—a moral challenge if there ever was one.¶ I agree with Governor O'Malley that there is a moral imperative for something better and cleaner. The question is whether nuclear power is that alternative. Policy deliberation about the proposed renaissance of nuclear power must take into consideration the disproportionate health risks associated with uranium extraction, processing, enrichment, waste storage, and nuclear accidents, not to mention repurposing for weapons.¶ The history of nuclear power is intimately tied to the history of nuclear arms. It is no coincidence that in the game of cat and mouse that is international nuclear inspection, whether uranium is being used for power generation or military purposes is always a question. In the United States, research on the development of the atomic bomb led, in the post–World War II years, to the establishment of the Atomic Energy Commission, the predecessor of today's Department of Energy. In 1954, the Atomic Energy Act Amendments created a licensing system for private nuclear power operators, and in 1957, Congress passed the Price-Anderson Act, which indemnifies private operators in the event of a nuclear accident.¶ This act, currently extended until 2025, limits a nuclear utility's liability to $10 billion, with the remainder of the liability borne by U.S. taxpayers. Critics, liberal and conservative alike, have criticized the act as an inappropriate government subsidy that externalizes (and thus leads to underrepresentation of) the real cost of nuclear power. Public Citizen, in its 2004 advocacy work against extension of the act, estimated that "the $10.5 billion provided by private insurance and nuclear reactor operators represents less than two percent of the $560 billion in potential costs of a major nuclear accident."3 More recently, under the Nuclear Waste Policy Act of 1982, the federal government assumed responsibility for the disposal of all spent nuclear fuel—with the waste storage plan funded by electric utility users and taxpayers. The mandated 1998 deadline for the government to start receiving nuclear waste has long since passed due to technical and legal challenges to the proposed site at Yucca Mountain, Nevada—which sits on geologic faults, and whose host state and host Indian Nation, the Western Shoshone, have filed lawsuits to stop the plan.¶ One of the reasons the federal government has assumed a large share of [End Page 16] the risks associated with nuclear energy is its military incentives, both to ensure a continuing supply of nuclear material for weaponry and to ensure that disposed material is safely out of the reach of terrorists and others who would use it against the United States. The other reason, as Governor O'Malley and others have maintained, is that it is a "clean" alternative to fossil fuels. But how "clean" is it?¶ The legacy of uranium mining in Navajo lands provides a cautionary tale. Between 1944 and 1986, close to four million tons of uranium was mined on the Navajo homeland in the Four Corners region of Colorado, Utah, New Mexico, and Arizona. Based on Environmental Protection Agency estimates, there are 520 unremediated radioactive mine and mill sites on Navajo lands. These sites, which were operated by private contractors and overlooked by federal regulators, were simply abandoned and left open near Navajo homes and water supplies. As a result, for well over a quarter of a century, uranium dust has been inhaled, ingested, and unknowingly mixed with clay to build structures in the Navajo nation—with radium levels registering 270 times the EPA standard.4 At one site in Utah, ten thousand gallons of uranium-contaminated water a day was found seeping into the Colorado River.5 EPA studies have also found uranium-contaminated water sources as high as thirty-eight times the safe drinking water level. Many Navajo carry their water from the nearest source for household use, leaving few options to avoid contamination. The effects of these exposures are increasingly coming to light. As Judy Pasternak writes in a recent Los Angeles Times series, "Fifty years ago, cancer rates on the reservation were so low that a medical journal published an article titled 'Cancer Immunity in the Navajo." From the early 1970s to the late 1990s, however, "the cancer death rate on the reservation—historically much lower than that of the general U.S. population—has doubled." The incidence of stomach cancer in some areas near uranium deposits and mills is fifteen times the national average.6 An occupational health study of Navajo uranium miners concluded that their risk of developing lung cancer is twenty-eight times greater than Navajos not exposed to uranium.7¶ The federal government has, in a piecemeal way, recognized the injustice done to the Navajo as a result of uranium extraction. In 1995, the President's Advisory Committee on Human Radiation Experiments (chaired by Ruth Faden) concluded that "the federal government had wronged the uranium miners by allowing them to be unwittingly exposed to radiation hazards, and by studying the health effects of their exposures without adequate consent and disclosure."8 On the basis of this finding, many miners have received compensation through the Radiation Exposure Compensation Act, which as of May 19, 2008, has paid out $1.3 billion in twenty-eight thousand claims not only to 4,822 miners but also to "downwinders"—people living downwind of the Nevada test site exposed to nuclear fallout.9¶ Remedies for the toxic pollution of tribal lands, however, have lagged far behind. It was not until this year, at the request of the House Committee on Oversight and Government Reform, that the Bureau of Indian Affairs, Department of Energy, Nuclear Regulatory Commission, Environmental Protection Agency, and Indian Health Service developed a coordinated five-year plan, including assessment of structures and water sources that are likely to be contaminated, cleanup of structures found to be contaminated above safe levels, provision of alternate water supplies for residents consuming contaminated water, and cleanup of abandoned mine sites. By contrast, two hundred miles away, the government moved quickly to eliminate similar uranium risks in the community of Grand Junction, near Aspen and Vail, Colorado.10 Environmental justice advocates have repeatedly demonstrated that low income and minority communities suffer from unequal protection in environmental risk, enforcement, and remediation.11 This case seems to prove the point. Whereas the affected Navajo have a poverty rate of 40 percent for families, the 91 percent white population of Grand Junction has a family poverty rate of 7.5 percent.12 The Grand Junction site cleanup was initiated in the 1970s with an ultimate budget of $500 million.13 Such disparities in environmental enforcement and public health standards are intolerable, and yet, without explicit and enforced legal prohibitions and protections built into nuclear energy policy, they are likely to continue. Enforced prohibitions and protections should also, of course, be extended to govern the extraction of uranium imported to the United States and uranium mined by U.S. interests oversees. In Niger, for example, uranium extraction, including open-pit mining by the French company Areva, is wreaking havoc on the nomadic Tuareg peoples. As Claire Spiegel reported recently, with the price of uranium rising from nine dollars in 2004 to around seventy-five dollars today, the government of Niger has cracked down on the Tuareg, who are "demanding the health care, education and economic opportunities that the Niger government promised in 1995." In addition, their ceremonial grounds "are now dotted with red flags marking uranium deposits to be mined. Thousands of flags have been planted 'without any of the peoples of northern Niger being consulted or even informed,' said Issouf Ag Maha, a spokesman for the Niger Movement for Justice."14¶ When nuclear power is touted as a "clean" form of energy, proponents are generally referring to the fact that it produces fewer greenhouse gas emissions than fossil fuel. Belied by this rosy description are the enormous and documented ecological and human risks and harms associated with extraction, processing, enrichment, waste storage, and nuclear accidents, as well as with uranium's potential use in weapons production. [End Page 17] If we go forward with nuclear power, any morally tenable nuclear energy policy must incorporate enforceable human rights protections into the uranium extraction process. These issues could not be more urgent. According to a recent report, as of 2007, 43,153 new uranium mining claims have been filed in five western states in the United States, up from 4,333 new claims in 2004.15 Our hands are certainly not clean now. Will they be cleaner in the future?

#### Blacks’ exclusion from information about nuclear safety mirrors the construction of the white body politic- blacks are spatially and politically removed from the macro-body as “black trash” – discourses about environmental concerns fail unless there are foregrounded in intercorporeality

Mills 2001 (Charles W. Mills, Professor of Philosophy at the University of Illinois, Chicago, 2001, “Black Trash,” in Faces of Environmental Racism: Confronting Issues of Global Justice, 2nd edition, p. 73)

Race, then, is the basic organizing spatial principle of the extended body of the polity. Fanon points out that “Consciousness of the body . . . is a third-person consciousness.”32 Similarly, Gail Weiss has devised the concept of “intercorporeality” to signify the multiple, reflexive interrelations between our bodies, our perceptions of our bodies, and the reciprocal shaping of those perceptions by seeing ourselves through the perceptions of others: “To describe embodiment as intercorporeality is to emphasize that the experience of being embodied is never a private affair, but is always already mediated by our continual interactions with other human and nonhuman bodies.” Our “body images” are thus “constructed through a series of corporeal exchanges that take place both within and outside of specific bodies.”33 Applying this concept to political theory, one could say that the white members of the body politic continually exchange their whiteness with each other, recognizing each others’ bodies in the light of their full membership in the polity, and so reciprocally creating that polity. As white, as a full citizen, one’s body mirrors the larger body. One walks with confidence in the knowledge that one’s citizenship will be recognized, since it is written on one’s body—it is one’s body. And the image of the white body politic is then extended through relations of equal intercorporeal recognition throughout a whitened space. There is a macro-body, the collective white body, sustained by intersubjective, artificial, “contractual” agreement between the full humans, whose space is the locus of the body politic proper. And it is recognized as appropriate, through relations of unequal corporeal exchange, that the black body—in a sense the “nonhuman body”—be excluded from the macro-body.¶ Mainstream environmentalism is thus the environmentalism appropriate to this body—the normative body, the white body. Since white space has been historically privileged, white environmentalists can place their emphases on preservation and conservation, slogans appropriate for those whose spaces have benefited from full incorporation into the white macrobody. If the role of the sovereign, as “soul” (Hobbes) of the body politic, is to maintain the body’s health, then the role of the white sovereign is to ensure the health of the white body. For a state founded on the racial contract, this will mean the differential allocation of resources to the creation and protection of white spaces. And historically, the state has in fact made both space and race, through demarcating by law the populations coded as races, through enforcing segregation, and through divergent treatment of the respective divided spaces. Desmond King, an English political scientist, points out the disingenuousness of a mainstream U.S. political theory that “little acknowledges” the obvious fact that the federal government “constituted a powerful institution upholding arrangements privileging Whites and discriminating against Blacks.” 34 The racial state acts on behalf of the white citizenry, pouring resources into the privileged white spaces—schools, infrastructure, job creation, highways, mortgage assistance, police protection—since they are our spaces, the spaces that we, the full citizens of the polity, inhabit. So there is no common space, as in the mythical raceless social contract. Rather, there are our spaces and their spaces.¶ But even their spaces are in a sense ours—they are the spaces we concede to them, insofar as (short of outright expulsion) they have to occupy some space. Originally, it is explicit, then, that blacks do not have free range over the topography of the body politic. Rather, they are restricted to second-class spaces, as befitting their second-class, subperson status:¶ Niggertown, Darktown, Bronzeville, the black belt, the ghetto, the inner city, in housing arrangements; and, when they are allowed to enter the public white space, the back of the bus, the seats in the balcony, the crowded car at the end of the train. These spaces become identified as black spaces, and are derogated as such, signaling their nomncorporation in the respectable flesh of the white body politic. King describes how:¶ Prior to the end of segregation, the United States was subnationally a divided polity. Two political systems, mirroring two societies, the one democratic and the other oligarchic, existed side by side. . . . Segregation was an arrangement whereby Black Americans, as a minority, were systematically treated in a separate, but constitutionally sanctioned way. As the NAACP observed, they were treated “almost as lepers.”35¶ And this leprous flesh, the boundary of political, moral, and spatial exclusion from the body politic proper, marks the limits of the sovereign’s full responsibilities. As derogated space, inhabited by beings of lesser worth, it is a necessary functionalist space ¶ analogous to the body parts below the belt, the ones we keep hidden. Since the normative body is the white body, the black body, or the unavoidable black parts of the white body—its waste products, its excreta—need to be kept out of white sight. White space needs to be maintained in its character as white and preserved from contamination by the ever- threatening dark space—evil, shitty, savage, subproletananized.

On the collective white macro-body, these spaces are literally blots on the landscape that we have to tolerate but that must not be allowed to trespass beyond their borders. The politics of racial space then requires that the line be drawn, the boundaries not crossed. These spaces must stay in their place. The racial contract is in part an agreement to maintain certain spatial relations, a certain spatial regime, the incarnation of the white body politic, the physical manifestation of the white Leviathan.¶ In this revised conceptual framework, then, it becomes unsurprising that the United Church of Christ’s Commission for Racial Justice found in the first national study on the topic (1987):¶ � Race is “the single most important factor (i.e., more important than income, home ownership rate, and property values) in the location of abandoned toxic waste sites.”36¶ � Some black residents of these areas feel “We don’t have the complexion for protection.”37¶ � A national investigation (1992) by the National Law Journal of Enviromnental Protection Agency cleanup efforts concluded “that the average fine imposed on polluters in white areas was 506 percent higher than the average fine imposed in minority communities” and that “cleanup took longer in minority communities, even though the efforts were often less intensive than those performed in white neighborhoods.”38¶ � Mainstream white environmentalists are perceived as caring more about parks and owls than people of color.39¶ � “Institutional resistance to providing information [on environmental issues] is likely to be greater for groups such as racial minorities.”¶ � In general, “Public officials and private industry have, in many cases, responded to the NIMBY [Not in My Black Yard] phenomenon using the ‘PIBBY’ principle, ‘Place in Blacks’ Back Yards.’ “41¶ In effect, then, these spaces can be written off because these people can be written off. The devalued space interacts with its devalued inhabitants. They are “outside” the boundaries of empathy, not like us, not an equally valued body in the intercorporeal community that is the collective white body. As Bill Lawson points out in chapter 3, “Living for the City: Urban United States and Environmental Justice” (p. 41): “[R]acial and spatial difference marks important differences that must be given weight in our moral deliberation.. . . Environmentalists have a natural conception of pollution as a negative norm. If a place is thought to be already polluted by racial identifiers, we need to contain the pollution by keeping it in that area.” Since these are already waste spaces, it is only appropriate that the waste products of industrialization should be directed toward them. Like seeks like—throwaways on a throwaway population, dumping on the white body’s dumpsite.¶ So the “environment” is not the same for these distinct and spatially segregated communities. Black relations to nature have always been mediated by white power, the sinews and tendons running through the white body. The combination of environmental with social justice concerns—so strange and radical from the point of view of traditional white environmentalism—then is simply a recognition of this fact. Conservation cannot have the same resonance for the racially disadvantaged, since they are at the ass end of the body politic and want their space upgraded. For blacks, the “environment” is the (in part) white-created environment, where the waste products of white space are dumped and the costs of white industry externalized. Insofar as the mainstream environmentalist framing of issues rests on the raceless body of the colorless social contract, it will continue to mystify and obfuscate these racial realities. “Environmentalism” for blacks has to mean not merely challenging the patterns of waste disposal, but also, in effect, their own status as the racialized refuse, the black trash, of the white body politic.

#### The politics of disposability ensures perpetual violence and renders whole populations valueless – we should reject the figure of the antipublic intellectual

Giroux 2010 (Henry Giroux, Global TV Network Chair Professorship at McMaster University in the English and Cultural Studies Department, September 28, 2010, “Memories of Hope in the Age of Disposability,” Truthout, http://archive.truthout.org/memories-hope-age-disposability63631)

Welcome to the new era of disposability in which market-driven values peddle policies that promote massive amounts of human suffering and death for millions of human beings. Programs to help the elderly, middle aged and young people overcome poverty, get decent jobs, obtain access to health insurance and decent health care and exercise their dignity and rights as American citizens are denounced in the name of austerity measures that only apply to those who are not rich and powerful.(8) At the same time, the new disposability discourse expunges any sense of responsibility from both the body politic and the ever-expanding armies of well-paid, anti-public intellectuals and politicians who fill the air waves with poisonous lies, stupidity and ignorance, all in the name of so-called "common sense" and a pathological notion of freedom stripped of any concern for the lives and misfortunes of others. In the age of disposability, the dream of getting ahead has been replaced with, for many people, the struggle to simply stay alive. The logic of disposability and mean-spirited cruelty that now come out of the mouths of zombie-like politicians are more fitting for the authoritarian regimes that emerged in Russia and Germany in the 1930s rather than for any society that calls itself a democracy. A politics of uncertainty, insecurity, deregulation and fear now circulates throughout the country as those marginalized by class and color become bearers of unwanted memories, subject to state-sanctioned acts of violence and rough justice. Poor minority youth, immigrants and other disposable populations now become the flash point that collapses moral and political taxonomies in the face of a growing punishing state. Instead of becoming the last option, violence and punishment have become the standard response to confronting the problems of the poor, disadvantaged and jobless. As Judith Butler points out, those considered "other" and disposable are viewed as "neither alive nor dead, but interminable spectral human beings no longer regarded as human.(9) Thinking about visions of the good society is now consdered a waste of time.

#### Status quo policymaking reflects the logic of disposability- Vague apocalyptic threats are constructed as a ruse to distract from real issues of social justice – this is disruptive to the potential for deliberation

Giroux 2009 (Henry Giroux, Waterbury Chair of Secondary Education at Pennsylvania State University, “Zombie Politics and Other Late Modern Monstrosities in the Age of Disposability,” 17 November 2009, Truthout, http://www.truthout.org/111709Giroux)

At present, Americans are fascinated by a particular kind of monstrosity, by vampires and zombies condemned to live an eternity by feeding off the souls of the living. The preoccupation with such parasitic relations speaks uncannily to the threat most Americans perceive from the shameless blood lust of contemporary captains of industry, which Matt Taibbi, a writer for Rolling Stone, has aptly described as "a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money." [[3](http://www.truthout.org/111709Giroux#3)] Media culture, as the enormous popularity of the Twilight franchise and HBO's True Blood reveal, is nonetheless enchanted by this seductive force of such omnipotent beings. More frightening, however, than the danger posed by these creatures is the coming revolution enacted by the hordes of the unthinking, caught in the spell of voodoo economics and compelled to acts of obscene violence and mayhem. They are the living dead, whose contagion threatens the very life force of the nation. Only a decade or so ago, citizens feared the wrath of robots - terminators and cyborgs - who wanted to destroy us - the legacy of a highly rationalized, technocratic culture that eludes human regulation, even comprehension. That moment has passed as we are now in the 2.0 phase of that same society where instrumental rationality and technocracy still threaten the planet as never before. But now, those who are not part of a technocratic elite are helpless and adrift, caught in the grips of a society that denies them any alternative condemned to roam the earth with a blind unthinking rage. Zombies are invading almost every aspect of our daily lives. Not only are the flesh-chomping, blood-lusting, pale-faced creatures with mouths full of black goo appearing in movie theaters, television series, and everywhere in screen culture as shock advertisements, but these flesh-eating zombies have become an apt metaphor for the current state of American politics. Not only do zombies portend a new aesthetic in which hyper-violence is embodied in the form of a carnival of snarling creatures engorging elements of human anatomy, but they also portend the arrival of a revolting politics that has a ravenous appetite for spreading destruction and promoting human suffering and hardship.[[4](http://www.truthout.org/111709Giroux#4)] This is a politics in which cadres of the unthinking and living dead promote civic catastrophes and harbor apocalyptic visions, focusing more on death than life. Death-dealing zombie politicians and their acolytes support modes of corporate and militarized governance through which entire populations now become either redundant, disposable or criminalized. This is especially true for poor minority youth who, as flawed consumers and unwanted workers, are offered the narrow choice of joining the military, going to prison or being exiled into various dead zones in which they become socially embedded and invisible.[[5](http://www.truthout.org/111709Giroux#5)] Zombie values find expression in an aesthetic that is aired daily in the mainstream media, a visual landscape filled with the spectacle of destruction and decay, wrought by human parasites in the form of abandoned houses, cars, guttered cities, trashed businesses. There are no zombie free spaces in this politics, as a country paralyzed by fear has become the site of a series of planned, precision attacks on constitutional rights, dissent and justice itself. Torture, kidnappings, secret prisons, preventive detention, illegal domestic spying and the dissolution of habeas corpus have become the protocol of a newly fashioned dystopian mode of governance. Zombie politics reveals much about the gory social and political undercurrent of American society. This is a politics where the undead, or more aptly, the living dead, rule and rail against any institution, set of values, and social relations that embrace the common good or exhibit compassion for the suffering of others. Zombie politics supports megacorporations that cannibalize the economy, feeding off taxpayer dollars while undercutting much-needed spending for social services. The vampires of Wall Street reach above and beyond the trajectories of traditional politics, exercising an influence that has no national or civic allegiance, displaying an arrogance that is as unchecked as its power is unregulated. As Maureen Dowd has pointed out, one particularly glaring example of such arrogance can be found in Lloyd Blankfein's response to a reporter's question when he asked the chief of Goldman Sachs if "it is possible to make too much money."[[6](http://www.truthout.org/111709Giroux#6)] Blankfein responded by insisting, without irony, that he, and I presume his fellow Wall Street vampires, were "doing God's work."[[7](http://www.truthout.org/111709Giroux#7)] A response truly worthy of one of the high priests of voodoo economics who feels no remorse and offers no apology for promoting a global financial crisis while justifying a bloated and money-obsessed culture of greed and exploitation that has caused enormous pain, suffering and hardship for millions of people. Unfortunately, victim to their own voodoo economics, the undead along with their once barely breathing financial institutions keep coming back, even when it appears that the zombie banks and investment houses have failed one last time, with no hope of once again wreaking their destruction upon society.

#### Thus, we advocate: United States Federal Government secrecy restrictions on domestic nuclear energy production should be reduced.

#### Removing NRC secrecy restrictions solves by exposing the dirty laundry of nuclear power- this enables the possibility of activism

Mangano 2012 (Joseph Mangano, PhD and executive director of the Radiation and Public Health Project, “Mad Science: The Nuclear Power Experiment,” 2012, google books)

The mention of the Santa Susana experience brings up a corollary issue with nuclear power, beyond those of safety and economics. The industry, although supported generously with public tax dollars and other financial incentives, operates in secrecy. The general public, or even members of Congress, know very little about what transpires at atomic plants, especially on matters of environmental pollution and safety. This culture may be a carryover from top-secret nuclear weapons and/or a matter of not wanting to air “dirty laundry” to the public. If the dangers of atomic energy were revealed, the public might become alarmed and Congress might withdraw its generous support. For decades, nuclear safety issues have been hidden or minimized by those in charge. Yet the secrecy and deception have actually fueled the struggle to understand the industry’s successes and failures. Over time, more people have become suspicious and challenged the rhetoric that nukes are “cheap and clean.” These challenges gained strength as the end of the Cold War reduced the need to support a growing nuclear weapons arsenal. Eventually, this wall of secrecy and deception began to give way – although it still has not completely disappeared- and nuclear power’s negative side has been more thoroughly revealed.

#### Traditional forms of policymaking cannot effectively incorporate racial equity into its rationality- Policy should reflect the demands of residents- The status quo is obsessed with political procedural minutae trades off with a community situated view of risk

Laituri and Kirby 1994 (Melina Laituri, professor of social sciences at ASU, and Andrew Kirby, associate dean for academic affairs at Auckland, “Finding Fairness in America’s Cities? The Search for Environmental Equity in Everyday Life,” Journal of Social Issues, volume 50, number 3, JSTOR)

We have argued that any consideration of green justice cannot be limited solely to wildemess areas; it must include too the issue of natural resources as they are manifested within our urban areas. Indeed, a growing voice within American cities sees the inequitable distribution of these resources as yet another dimension of inequality within society. Class and ethnicity already determine a great deal of our opportunities; there is mounting empirical evidence that poverty and color are frequently associated with a poor quality of life and poor access to a healthy environment. While many of us have observed these inequities, such observations have been slow to infiltrate the planning process and the political realm. This is because we have depended upon models of rationality, in both the analysis of risk and the determination of environmental impacts, that are incapable of incorporating issues of equity. It is for this reason that we argued for the creation of new approaches, ones that are congruent with the needs and views of the residents themselves. We have shown, in the discussion of the Environmental Equity Assessment, that it is possible to generate formal methodologies that allow us to incorporate a broader spectrum of issues, ranging from community views on risk through to a broad range of economic impacts and possible types of compensation. Our necessarily briefcase study of Tucson provides a sketch of how such an EEA can be developed. For psychologists, this analysis offers one basic insight, namely the importance of understanding the collective discourse of risk in a community and the need to place this discourse within the contexts both of equity and the environmental quality of life. While individual constructions of the natural world and hazards are not without interest, these are always part of larger currents of opinion, dictated by corporations, govemments and the residents themselves. In the past these collective values have received less attention than those of the individual—and in disciplines like experimental economics, the construction of the individual's risk calculus remains paramount. Here, we have emphasized that the determination of equity with regard to the natural world must pay attention to the ways in which the collective consciousness is forged, if past experiences of pollution and a poor quality of life are to be rectified and avoided in the future.

#### This form of secrecy precludes democratic participation and productive political discourse – it replicates the worst of path dependence

Gowder 2006 (Paul Gowder, J.D., Harvard Law School, 2006, “Secrecy as Mystification of Power: Meaning and Ethics in the Security State,” I/S: A JOURNAL OF LAW AND POLICY, http://pangea-icic.ifai.org.mx/National%20Security/secrecy%20as%20mystification%20of%20power.pdf)

Secrecy defeats that claim to legitimacy too once we introduce time into the equation. The nature of claims to normative validity (like all claims analogous to truth claims) is that they are contingent on future knowledge and discourse.64 This is a common-sense principle: to validate anything by argumentation, we must be willing to permit ongoing inquiry to determine if new insight proves us wrong. Thus, Habermas’s universalization principle requires an opportunity for people in the future to participate in the discourse.65¶ Secrecy creates a path-dependence which operates to prevent future participants from engaging in a future discourse. It impairs data-gathering about the effects of secret policies, thus divesting future actors of the reasons they may consider in determining whether their representatives are serving them.66 This is surely inconsistent with our notions of democracy.

#### Maintaining the secrecy of nuclear power’s dangers risks global annihilation- Radiation threatens future generations and undermines necessary environmental systems

Patterson 2011 (Jeffrey Patterson, professor emeritus in the Department of Family Medicine at the University of Wisconsin School of Medicine and Public Health, April 26, 2011, “Radiation exposure and the power of zero,” Bulletin of the Atomic Scientists, http://www.thebulletin.org/web-edition/op-eds/radiation-exposure-and-the-power-of-zero)

The ongoing nuclear power plant disaster in Japan has once again pushed the topic of radiation safety into the public consciousness, while also reminding us that the public continues to doubt government and nuclear industry information on safety and the effects of radiation. Part of this wariness stems from the fact that people cannot detect radiation using their own senses, which creates a dread of the unknown. People are also very aware that the effects of radiation are cumulative and may not appear for many years, so the outcome of a disaster like Fukushima is not easy to predict. Finally, the nuclear industry has a history of secrecy, cover-up, and soft-pedaling that does not engender public trust.¶ There are some basic principles to consider when the impacts of radiation exposure are evaluated. First, there is no "safe" or non–harmful level of radiation. Second, we are all exposed to radiation: background radiation emitted by natural sources, with which we evolved; and medical radiation, which may be necessary and life-saving as decided and controlled by the patient and physician.¶ Finally, there is another form of exposure that has been thrust upon the world since the advent of the nuclear age: radiation released by the mining and processing of nuclear fuel, the testing and use of nuclear weapons, and the "controlled" and catastrophic releases of long-lived radionuclides by the nuclear power industry. This is quite a different issue, because the effects of these releases will continue for many years but will likely remain hidden or unknown. Worldwide, an unknowing and unsuspecting public is being randomly exposed to radiation without any opportunity for informed consent. People can choose whether or not to have x-rays, to reduce the radon exposure in their homes, or to fly. However, the public has no choice, and certainly inadequate knowledge, about radiation exposure from nuclear power and nuclear weapons.¶ History lessons. The history of radiation exposure is instructive when we consider this topic. In 1895, Wilhelm Röntgen discovered x-rays and used them to take a picture of the bones inside his wife's hand. A year later, Henri Becquerel realized that invisible emanations from uranium salts would expose photographic plates. Marie Curie and her husband Pierre carried this work further, leading to the use of mobile x-ray machines in World War I. Madame Curie, it is said, enjoyed the glow from radioactive test tubes that she kept in her desk. She died at age 66 from aplastic anemia thought to be caused by her work with radiation. Were she alive today, she would undoubtedly follow the precautions that modern scientists take when dealing with radiation, and would not be carrying around radioactive material unprotected. Likewise, radiologists began taking steps to protect themselves from the damaging effects of radiation after noticing that people in this profession were dying at earlier ages than their colleagues who were not exposed to radiation.¶ Yet even in the 1970s it was common medical practice to x-ray pregnant women during labor to see if the pelvis was "adequate" -- a procedure, incidentally, that was absolutely worthless. Sentinel work by Alice Stewart, a physician and epidemiologist who studied the effects of radiation on health, revealed that even one x-ray before birth could increase a child’s chances of getting leukemia. Despite criticism of Stewart’s work by the nuclear industry, doctors no longer perform x-rays on pregnant women unless absolutely necessary. The trend throughout the nuclear age has been a growing recognition that there is no "safe" or "harmless" dose of radiation.¶ In 2006 the National Academies' National Research Council published a comprehensive report, "Health Risks from Exposure to Low Levels of Ionizing Radiation (BEIR VII - Phase 2)" stating that radiation exposure has a linear relationship to the development of cancer. The report concluded that even low doses of ionizing radiation are likely to pose some health risks; there is no threshold of exposure below which the risk drops to zero.¶ Unknown impacts. Most of what we know about the effects of radiation exposure comes from studies of the survivors of the Hiroshima and Nagasaki bombings, from intentional medical irradiation, and from a few high-dose accidents. The Hiroshima exposure was a one-time dose largely composed of gamma rays and x-rays, because the bombs were exploded high in the air and produced very little fallout. This type of radiation exposure is very different from the releases caused by nuclear testing, the 1957 Kyshtym accident at a nuclear fuel processing plant in Russia, and the disasters at Chernobyl and Fukushima. These have produced long-lived radionuclides -- such as cesium 137, strontium 90, and plutonium 239 -- that remain in the environment for hundreds of years. To say that these radionuclides cause no harm to human health is unwarranted; we must observe populations for generations to know what the effects of these releases are. Unfortunately, minimizing or covering up the potential risks has long been a strategy of the nuclear industry and its government regulators.¶ A classic example of this occurred in 1951, when the general manager of the Eastman Kodak Company called the Atomic Energy Commission (AEC) to complain about high levels of radiation detected at the Kodak plant in Rochester, New York, during a snowstorm. Kodak executives were concerned that radiation could damage their film. The AEC confirmed that a nuclear test had taken place two days earlier in Nevada, and offered to send Kodak warnings before future tests, including maps predicting where the heaviest fallout would occur. Meanwhile, the AEC failed to give any warning to farmers, families with children who would drink contaminated milk, or pregnant mothers -- and instead released a statement to the Associated Press that "there is no possibility of harm to humans or animals." Other gross examples include the cover-up of the Kyshtym disaster by the US and the Soviet Union, and the failure to inform the general public of the Chernobyl crisis during the first three days that it was happening.¶ The real issue. Scientific arguments regarding the effects of particular doses of radiation will and should continue. However, to make this the focus of any discussion of nuclear safety obscures the real issue, thus missing the forest for the trees. The real issue is that the use of nuclear power and nuclear weapons is forcing humankind, and indeed the whole ecosystem, to participate in a particularly cruel and totally uncontrolled experiment. Given the scientific evidence that there is no safe dose of radiation, this is an experiment that has already gone awry. Indeed, if this were a true scientific experiment, it would have been halted a long time ago.¶ The real question is whether we, as a human race, can afford in good conscience to risk annihilation with our continued reliance on nuclear technology. Can we continue to despoil our environment with long-lived radioactive materials that are scattered to the wind and embedded in our precious soil, randomly exposing large populations, and foisting health impacts on unsuspecting future generations who have no choice in this matter?

## \*\*\*2AC\*\*\*

### 2AC T Restriction ON Production

#### We meet: Secrecy restrictions are on energy production

Cinquegrana 1984 (Americo R. Cinquegrana, Deputy Counsel to the Attorney General for Intelligence Policy, U.S. Department of Justice, and John Michael Shepherd, Special Assistant to the Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, August 1, 1984, “The Current Legal Basis for Controls on the ‘Export’ of Technical Information,” Boston College International and Comparative Law Review, http://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1433&context=iclr)

Under the terms of the Atomic Energy Act, all information, whether "research" or "development" in nature, that concerns the design, manufacture or use of atomic weapons, the production of special material, or the use of such material in energy production is designated as "restricted data" and therefore subject to the control of the Department of Energy, successor to the Atomic Energy Commission for these purposes.89 Information within the restricted data category is "born classified" in that it is subject to government control as restricted data from the moment of its development, even when the information has been developed entirely in the private sector.

#### Information must be secret to get a NRC license- We are a licensing aff

CCAM 2001 (CONNECTICUT COALITION AGAINST MILLSTONE AND LONG ISLAND COALITION AGAINST MILLSTONE, November 1, 2001, “MOTION TO REOPEN THE RECORD¶ AND REQUEST FOR ADMISSION OF LATE-FILED ENVIRONMENTAL CONTENTION,” letter to the NRC, http://pbadupws.nrc.gov/docs/ML0131/ML013190390.pdf)

(IX-2) Before considering the potential need to limit the distribution of information in the context of an NRC licensing proceeding, it is important to¶ consider the countervailing need for openness. There are two powerful arguments for openness about the issues that are addressed in NRC licensing proceedings. First, experience shows that the safety of nuclear facilities is significantly and adversely affected by a culture of secrecy. Second, secrecy about civil nuclear facilities is incompatible with democracy.

#### A license is THE restriction on nuclear production- Conditions restrict the scope of the license

NRC 2005 Nuclear Regulatory Commission, "Backgrounder on Nuclear Power Plant Licensing Process," July, <http://www.nrc.gov/reading-rm/doc-collections/fact-sheets/licensing-process-bg.html>

The Nuclear Regulatory Commission (NRC) is responsible for licensing and regulating the operation of commercial nuclear power plants in the United States. Currently operating nuclear power plants have been licensed under a two-step process described in Title 10 of the Code of Federal Regulations (10 CFR) under Part 50. This process requires both a construction permit and an operating license.¶ In an effort to improve regulatory efficiency and add greater predictability to the process, in 1989 the NRC established alternative licensing processes in 10 CFR Part 52 that included a combined license. This process, although not used to date, combines a construction permit and an operating license with conditions for plant operation.¶ Other licensing alternatives under Part 52 include Early Site Permits that allow an applicant to obtain approval for a reactor site without specifying the design of the reactor(s) that could be built there, and certified standard plant designs which can be used as pre-approved designs.¶ In either process (10 CFR Part 50 or Part 52), before a nuclear power plant can be built and operated, approval must be obtained from the NRC. In both licensing processes the NRC maintains oversight of the construction and operation of a facility throughout its lifetime to assure compliance with the Commission's regulations for the protection of public health and safety, the common defense and security, and the environment.

#### “Federal Government” can mean any sub-agency

Words & Phrases: Permanent Edition, 2004, vol 16a, p.42

N.D.Ga. 1986. Action against the Postal Service, although an independent establishment of the executive branch of the federal government, is an action against the "Federal Government" for purposes of rule that plaintiff in action against government has right to jury trial only where right is one of terms of government's consent to be sued; declining to follow Algernon Blair Industrial Contractors, Inc. v. Tennessee Valley Authority, 552 F.Supp. 972 (M.D.Ala.). 39 U.S.C.A. § 201; U.S.C.A. Const.Amend. 7.—Griffin v. U.S. Postal Service, 635 F.Supp. 190.—Jury 12(1.2).

#### Err aff, secrecy obscures any means of knowing whether or not secrecy directly restricts production- broad application of Restricted Data standard- aff is a prerequisite to meeting their burden to clearly prove a violation

Commission on Protecting and Reducing Government Secrecy 1997 (Congressional Commission Report,“Chapter 2: Rethinking Classification: Better Protection and Greater Openness,” http://www.gpo.gov/fdsys/pkg/GPO-CDOC-105sdoc2/pdf/GPO-CDOC-105sdoc2-7.pdf

The Atomic Energy Act of 1954 (AEA), as amended, authorizes an entirely separate system for protecting information from that established by executive order. This distinct system arose from the desire to establish a special regime for protecting highly sensitive nuclear-related information, coupled with the absence of any formal classifi- cation system among civilian agencies immediately after World War II. The AEA serves as the basis for between 80 and 90 percent of all classification decisions made by the Department of Energy (DoE), according to Department officials.¶ The AEA provides for the classification of information, termed Restricted Data (RD), covering “the design, manufacture or utilization of atomic weapons . . . the production or the use of special nuclear material in the production of energy.” Unlike national security information, which must meet certain criteria before being classified, no affirmative decision is required on the part of the DoE to classify information as Restricted Data: if information fits within the above definition, then it is considered classified from its origin and is said to be “born classified.” Statutory authority for the classification of such information also has implications for oversight of DoE classification practices, as discussed below.

#### Counterinterpretation: “On” indicates the subject of restrictions- Energy production is the subject of the restriction

Webster 2012 (Merriam-Webster Dictionary, http://www.merriam-webster.com/dictionary/on)

d —used as a function word to indicate the subject of study, discussion, or consideration <a book on insects> <reflect on that a moment> <agree on price>

#### “Restriction” means limitation

Words & Phrases: Perm Edition, 2002, vol 36A, p412

Okla. 1922. Supplemental Creek Agreement of June 30, 1902, c. 1325, § 16, 32 Stat. 503, declaring that lands allotted to citizens shall not be alienated by the allottee or his heirs before the expiration of 5 years from date of approval of the agreement, except with the approval of the Secretary of the Interior, that each citizen shall select a homestead, which shall be inalienable for 21 years, and that the homestead of each citizen shall remain after the death of the allottee for the support of children born to him after May 25, 1901, but if he have no such issue, then he may dispose of his homestead by will "free from the limitation here imposed," and if this be not done the homestead shall descend to his heirs "free from such limitation," removes homesteads of such allottees as died intestate, leaving no issue born after May 25, 1901, from the restrictions, and they are subject to sale by heirs; the word "limitation" being used interchangeably with the word "restriction," and referring to the restrictions provided lor.—Nixon v. Good, 208 P. 803, 87 Okla. 19, 1922 OK 243.

#### Reasonability- avoids race to the bottom- specific evidence

MME 2012 (Mexican Ministry of Economy, March 2012, “Other Appellant Submission of Mexico,” UNITED STATES – CERTAIN COUNTRY OF ORIGIN LABELLING REQUIREMENTS, http://www.economia.gob.mx/files/comunidad\_negocios/comercio\_exterior/solucion\_controversias/EDO.EDO/ORGANIZACION%20MUNDIAL%20DE%20COMERCIO/Participaci%C3%B3n%20de%20M%C3%A9xico%20como%20reclamante/EU\_COOL/20COMUNICACIONDELOTROAPELANTEDEMEXICO.pdf)

52. The ordinary meaning of “restrictive” is “imposing restrictions”63 “[i]mplying, conveying or expressing restriction or limitation” and “[h]aving the nature or effect of a restriction; imposing a restriction.”64 The term “restriction” is defined as “the act or an instance of restricting; the state of being restricted”65 and as “[a] thing which restricts someone or something, a limitation on action, a limiting condition or regulation.”66 The term “restrict” is defined as “confine, bound, limit”.67 53. The meaning of “restriction” has been elaborated upon in jurisprudence concerning other WTO provisions. The term “restriction” should not be given a narrow meaning. A “disguised restriction” in the context of Article XX of the GATT 1994 has been interpreted to include “disguised discrimination in international trade”.69 In the context of Article XI and other non-discrimination provisions of the GATT 1994, it has been found that GATT disciplines on the use of restrictions are not meant to protect “trade flows”, but rather the “competitive opportunities of imported products”.70 In Argentina – Hides and Leather, the Panel found that in determining whether a measure makes effective a restriction in the context of Article I, II, III and XI:1 of the GATT 1994 the focus is on the competitive opportunities of imported products, not the trade effects. That panel considered that the complaining party claiming the existence of a restriction need not prove actual trade effects.

### Aspek

#### Clarifies stasis; active distributes it, link turning their precision arguments – just like agent counterplans distract from subject of energy

Michel Hupet Department of Experimental Psychology, University of Louvain, Belgium

& Brigitte Le Bouedec Department of Experimental Psychology, University of Angers, France

(1975): Definiteness and voice in the interpretation of active and passive sentences, Quarterly Journal of Experimental Psychology,

27:2, 323-330 <http://dx.doi.org/10.1080/14640747508400491>

Since the main structural difference between the active and the passive voice is in the position of the logical subject and logical object, psychological studies have concentrated on the communicative function of this word-order difference. Attention has been first focused on the importance of the grammatical subject in the beginning of the sentence (for a review, see Anisfeld and Klenbort, 1973). The main conclusions were (a) that the grammatical subject is more “important” and carries greater emphasis than the grammatical object, and (b) that the difference between the grammatical subject and object in this regard is greater for the passive than for the active. It has thus been claimed that the passive is more emphatic than the active, the former being used to indicate that importance is attached to that entity which occupies initial nominal position in the sentence. More recent studies, however, concentrated on the functions suggested by the grammatical object position at the end of the sentence, for it has been claimed (Mihailovic, 1963) that the logical subject, not object, is really that which is emphasized in the passive because it receives heavy phonetic stress and because it is introduced by the by preposition. In accordance with a proposal of Chomsky ( I ~ I )K, l enbort and Anisfeld (1974) suggested that in the passive the logical subject is focal since it comes at the end of the sentence where, under normal intonation, it receives heaviest phonetic stress. However, phonetic stress is hypothesized to have this effect only in the passive, for the active is expected to have a relatively flat perspective : the assertional focus being distributed over the entire sentence, with no information designated as presupposed background. In their experiment, Klenbort and Anisfeld’s subjects were presented with active and passive sentences about which uncertainty or outright negation were expressed ; their task was to decide what was the target of the negative expression by choosing between two alternative implications, one of which attributed the negation to the logical subject and the other to the logical object. The pattern of choices indicated that for the passive, statements negating the logical subject were significantly preferred over statements negating the logical object, thus supporting the hypothesis that the former is the focus of the assertion, and as such open to questioning and doubt, while the latter is presuppositional and regarded as known or established. In contrast to the passive, there was no clear pattern of preferences for the active, thus confirming the hypothesis of the active being presuppositionally neutral.

#### Passive voice improves policy – legitimacy & consistency – this is an internal link turn to their standards

Anita S. Krishnakumaf Associate Professor, St. John's University School of Law 2011 Brooklyn Law Review Passive-Voice References in Statutory Interpretation-

This essay examines these questions through the lens of a little-noticed grammar reference that has reared its head in a heindful of Supreme Court cases: inferences based on a statute's use of the passive voice. The essay argues that the Supreme Court's framing of passive-voice arguments suggests both legitimating and harmonizing roles for grammar references in statutory interpretation. Larry Solan has argued that judges employ linguistic analysis in statutory interpretation because they are under pressure to write decisively and to limit what they say to certain acceptable argument forms." Linguistic arguments. Solan theorizes, lend a (false) sense of neutrality and inevitability to a court's statutory reading—making it seem as if the court had no choice but to construe the statute in the selected manner.' The Court's passive-voice-based linguistic arguments provide some support for Solan's theory. But I submit that there is more to the Court's articulation of passive-voice-based interpretive inferences than the legitimation of its statutory constructions: This essay argues that the Court also uses passive-voice references to promote horizontal coherence across the United States Code. That is, when the Court announces particular interpretive inferences that flow from a statute's use of thé passive voice and other grammar devices, it not only justifies its interpretation of the statute at issue but also constructs consistency of meaning across federal statutes.

### Case

#### **a)** Informed consent- People have a right to know what they’re being exposed to- Ending secrecy results in a responsible decision to use or not use nuke energy- Aff is a study CP

Mangano 2012 (Joseph Mangano, PhD and executive director of the Radiation and Public Health Project, “Mad Science: The Nuclear Power Experiment,” 2012, google books)

At the core of the triumph of forces opposed to nuclear power is an illustration of democracy in action. The US is a society founded by principles in which the majority of all the people, not just the privileged few, would be the basis of public policy. An informed population would have the right to make these decisions. The emergence of nuclear power was used as a soothing medicine to counter fears of a world destroyed by all-out nuclear war. But this antidote was never described truthfully to the American public. Instead, it was based on secrecy, distortion, and outright lies — largely using money from American taxpayers. The American people have a right to breathe clean air, drink clean water, and eat clean food — and at very least must be informed of any impurities. The rise of nuclear power, and its continued existence in the face of many facts countering the standard “cheap” and “clean” slogans, stands as an anomaly in a democratic society.

### A2 Zoning Etc. CP

#### Perm do both- the CP has no means of resolving secrecy that prevents people that live by existing reactors that have already been sited and zoned- can’t solve any of our secrecy bad offense and which is also our internal link to our racism/disposability impacts

#### Exposing NRC secrets is a prerequisite- can’t trust them

DeWalt 2011 (Dan DeWalt, political activist and founder of Patriotic Response to Renegade Government, an organization based on the free association of like minded souls, July 27, 2011, “Why Any Thinking Person Should Question the NRC,” http://www.michaelmoore.com/words/mike-friends-blog/why-any-thinking-person)

The Vermont legislature, when considering whether or not to allow Vermont Yankee to operate for another twenty years past its original license, was not permitted to consider safety issues. The people of Vermont, however, are under no such restriction. In fact, we must scrutinize the federal Nuclear Regulatory Commission, which is in charge of reactor safety, to know if we should trust their actions and judgements.¶ The NRC's record does not inspire confidence. In spite of serious leaks, near meltdowns, non-compliance with regulations, and false testimony by reactor owners and operators, the NRC has approved every single application for reactor re-licensing that has been requested. In the aftermath of the continuing Fukushima meltdown, regulators in countries across the globe are re-assessing or suspending their nuclear programs. They recognize that the disaster in Japan is an indication that the best laid plans can go awry, and they want to be sure that their nations don't experience the same catastrophe through the complacency of regulators. But in America, president Obama, without knowing the extent of the reactor damage in Japan, without having a clue about how much radiation was rising into the atmosphere or pouring into the oceans, stood in front of the cameras to boldly (and erroneously) say that no radiation would reach our shores. And his NRC proceeded to blithely issue a license renewal to Vermont Yankee, a virtual twin to the Fukushima reactor, without so much as a pause to consider the implications of the disaster and how we could prevent one here. Instead they relied upon the same boiler plate statements they have always used, intoning that the reactor design took natural disasters into consideration and that, besides, no tsunami would ever hit Vernon. (Did anyone tell them about the hurricane and flood of 1927?)¶ Indeed, at a recent hearing in Brattleboro, when asked a direct question about how the pool of spent fuel rods, suspended six stories above the ground protected by sheet metal, should be expected to withstand a direct hit of an F4 tornado like the one that recently devastated brick and stone buildings in nearby Springfield MA, NRC representatives responded only by saying that it has been designed to withstand natural disasters, including the fuel pool. And when a chorus of exasperated voices demanded to know how, they were answered with a shrug. Considering that there is more highly radioactive spent fuel at VY than there is at all of the Fukishima reactors put together, this is unsettling at the very least.¶ Then consider the chief resident inspector at VY, Dave Bingard. He came to the NRC directly from working for Entergy at the Fitzpatrick reactor in New York. Within three years, he became the inspector of the reactor operated by his former employer. This doesn't mean that he will nefariously work in Entergy's favor. But in order to question or criticize any of Entergy's practices, he would have to reject the very procedures and policies that he himself had been a part of during his Entergy years. The revolving door culture that is destroying the efficacy of our Congress, does no better to instill confidence in regulators of the safety of our nuclear reactors.¶ Then we can consider the statements and actions of the NRC. When VY license renewal was approved by the NRC, chairman Gregory Jazco explicitly stated that this did not preclude Vermont from the process, and that NRC approval was just one step for Entergy. This was echoed at the Brattleboro hearing by the NRC regional commissioner as well, where he stated that Vermont's actions “don't involve any of our authorities or responsibilities”. However, according to Bernie Sanders, the NRC proceeded to meet with Entergy lawyers, then voted to ask the Justice department to intervene in the court case on Entergy's behalf. The NRC, illuminating the Obama administration's commitment to open government and transparency, refused to answer the Senator's charge. Why are they willing to act in secrecy and take their lumps from the public? One might posit that if they revealed their actions, we would be even more outraged. Unfortunately, we cannot really know. And this is precisely why, until they change their procedures and accountability, we have no choice but to question validity of NRC rulings about safety. They have worked hand in glove with the nuclear industry for decades while we will have to live with the aftermath of their mistakes. While we cannot pretend to answer these safety questions for ourselves, it would be the height of irresponsibility if we were to trust the NRC implicitly.¶ We need only remember George W. Bush's claim that no one expected the levees in New Orleans to fail during hurricane Katrina to realize the consequences of complacency. When all we hear are unsubstantiated statements telling us not to worry, its time to start worrying.

Their Barkas evidence is about nuke weapons secrecy which the plan does not impact

### A2 Exports DA

**US nuke power is coming now**

**Silverstein 2012** (Ken Silverstein, contributor at Forbes, May 7, 2012, “Nuclear Energy Won’t Die,” http://www.forbes.com/sites/kensilverstein/2012/05/07/nuclear-energy-wont-die/)

Some thought that nuclear energy may get buried after the Japanese Fukushima deluge. But the rumblings in this country are suggesting that it won’t die.¶ Several issues are creeping back into the American consciousness at once: The revival of Yucca Mountain, the safety measures enacted and the possibilities of surviving a nuclear accident here and finally, the licensing of two new nuclear sites after 33 years. The message that is radiating from those seemingly disparate events is that the nuclear resurgence is gathering more steam.¶ “The United States is building new nuclear energy facilities under an improved licensing process that exhaustively addresses safety considerations,” says Marvin Fertel, chief executive officer of the Nuclear Energy Institute. “It also assures that the lessons learned from the industry’s licensing and construction experience are properly applied to future projects.”¶ The U.S. Nuclear Regulatory Commission (NRC) granted two separate licenses to build nuclear reactors this year: One went to Southern Company and the other to Scana Corp. so that both companies could build two reactors on existing sites. Now, if those utilities can stay on time and on budget, the **consensus** among energy insiders here is that it would lead to more such construction.

**50 countries are pursuing nuclear energy**

**Hussain 2012** (Yadullah Hussain, March 9, 2012, “50 countries developing nuclear energy plans: report,” Financial Post, http://business.financialpost.com/2012/03/09/50-countries-developing-nuclear-energy-plans-report/)

The nuclear-energy industry is recovering from the Fukushima nuclear power plant debacle, with at least **50 countries** building, operating or considering nuclear power as part of their energy mix, according to a study.¶ About half of these countries are newcomers to nuclear, and there are **more than 60** nuclear plants under construction, mainly in China, Russia, India and South Korea, says a report from the World Energy Council.¶ “Apart from the **limited cases** where the Fukushima accident has caused governments to think again, the majority of countries, **after the initial emotion**, are now engaged in a rational assessment of the pros and cons of nuclear to bring energy to their populations,” said Pierre Gadonneix, chairman of the WEC.¶ Meanwhile, U.N. atomic energy chief said on Friday that nuclear power is safer than it was a year ago. In a statement issued ahead of Sunday’s first anniversary of the world’s worst nuclear crisis since Chernobyl in 1986, Director General Yukiya Amano of the International Atomic Energy Agency (IAEA) said meaningful steps had been taken to strengthen global nuclear safety since Fukushima.¶ “Nuclear safety is stronger than it was a year ago,” he said. “We know what went wrong and we have a clear course of action to tackle those causes – not only in Japan, but anywhere in the world.”¶ Amano added: “Now we have to keep up the momentum. Complacency can kill.”¶ Still, the implications of the Fukushima disaster remain uncertain, especially after Germany, Switzerland and Belgium decided to move away from nuclear power altogether and build up alternative renewable energy sources instead.¶ “Among the long-term outcomes, may be a general sense that ambivalent or negative views of nuclear energy and, in particular, questions about its safety, were justified This may involve an increase in the so-called “not in my backyard” mentality, with people not wanting facilities/plants in their immediate vicinity or neighbourhood.”¶ The WEC report notes that progress in several national programmes, especially in countries new to nuclear power, has been delayed, especially with regard to near-term decisions to start such projects.¶ OECD countries dominate the market with the largest in the USA (104 reactors), followed by France (58 reactors) and Japan (54 reactors) but most of the nuclear plants under construction are in non-OECD countries. China alone accounted for 42% of the construction (27 reactors), followed by Russia with 17% (11 reactors), and India with 8% (five reactors).¶ Similarly, most of the planned and proposed reactors were also in non-OECD regions. Of the total 159 planned reactors, China accounted for 31% (50 reactors), followed by India 11% (18 reactors), Russia 9% (14 reactors), and Japan 8% (12 reactors). Of the 323 proposed reactors, China accounted for 34% (110), India 12% (40), Russia 9% (30), the USA 7% (23), and Ukraine 6% (20).

#### Zero link- Their evidence is about weapons secrets not energy secrets- DOE does both

Holdren and Weeks 2000 (John P. Holdren, Former Director and Faculty Chair, Science, Technology and Public Policy Program, Jennifer Weeks, Former Executive Director and Research Associate, Project on Managing the Atom/Science, Technology, and Public Policy Program, 1997-2001, “Energy's Secrets: Finding the Balance”, Journal Article, Bulletin of the Atomic Scientists, volume 56, issue 2, pages 20-21,76-79

But the openness trend has been reversed. In response to possible leaks or theft of weapons-related information, Congress and the administration have intensified controls over nuclear information through measures ranging from a freeze on automatic declassification to increased use of lie detectors and restrictions on international cooperation at Energy Department laboratories. These actions threaten U.S. security more than they enhance it.¶ Alarm bells¶ From the beginning, O'Leary's openness efforts alarmed many in the national security community. They feared that declassification and increased access to information might contribute to nuclear proliferation or benefit potential U.S. adversaries. The critics gained ammunition in 1998 when nuclear weapons design information was found in some documents more than 25 years old, which had been slated for automatic declassification within several years under a 1995 executive order.¶ Congress immediately barred the department from automatically declassifying documents without reviewing them, and it directed the department to develop a plan for screening documents that might contain nuclear weapons-related information. At Energy Secretary Bill Richardson's request, President Bill Clinton extended the deadline for automatically declassifying documents under the 1995 order by up to 36 months.¶ The 1998 "Chinese spy scandal" added fuel to the fire. The report of a special House committee chaired by Christopher Cox, a Republican from California, released on May 25, 1999, took a worst-case view. China, it said, had stolen and would exploit information on advanced U.S. thermonuclear weapons.¶ Reports of possible Chinese espionage at the weapons labs triggered calls for sweeping action. Further, they reinforced concerns about the Energy Department's openness measures among those who had long believed that the agency's let-the-sun-shine-in policy was symptomatic of a casual attitude toward protecting critical nuclear-weapons information.

### 2AC Secret Committee CP

#### Aff is a prerequisite- NRC secrecy precludes political decisionmaking- Secrecy makes bad policymaking inevitable- 1AC is an internal link turn to fairness and effective deliberation, the values implied in their argument

Ellington 2004 (Thomas Coke Ellington, PhD Philosophy 2004 University of Maryland, “OFFICIAL SECRECY: SELF, STATE AND SOCIETY,” doctoral dissertation, http://drum.lib.umd.edu/bitstream/1903/1728/1/umi-umd-1699.pdf)

Ignoring official secrecy, however, is no longer an option. To do so is to court irrelevance. The past two-and-a-half years have seen an unprecedented move toward greater secrecy in the United States, with radical changes in the treatment not only of classified information but also with new efforts to control information that has already entered the public domain.¶ Among recent developments:¶ • Earlier this year, the Transportation Security Administration asked that two pages be deleted from transcripts of unclassified testimony in a congressional hearing on airport security. The Federal Document Clearing House (an organization that is partially owned by the Associated Press and provides transcripts to news organizations) complied and passed along the request to clients that already had the transcript in question. It is unclear if any complied, but Congressional Quarterly refused (“Media Asked to Delete Security Testimony” 2004).¶ • The Freedom of Information Act has already been amended to exclude “critical infrastructure information” from its disclosure requirements. This measure may indeed be useful in concealing information that could be useful to terrorists, but that is far from its only impact. For instance environmental groups are concerned that this exemption will make it more difficult for citizens to learn about pollution or unsafe practices (Guzy 2002).¶ The Nuclear Regulatory Commission has refused to release Duke Power’s application for an exemption from new security requirements for several of its nuclear plants in the Carolinas, on the basis that it contains unclassified but “critical infrastructure information” (Smith 2004). The public, which has an obvious interest in whether plant security is breached, is thus denied the opportunity for meaningful input into the NRC’s decision.¶ The NRC also recently threatened to prosecute staffers at the Project on Government Oversight for a report in which they critiqued security arrangements for two nuclear reactors at Indian Point, N.Y. While the group based its critique on interviews with participants in security drills and publicly available information, the NRC declared it contained “safeguards information” that was illegal to disclose. However, when staffers which information the NRC wanted deleted from the report, it initially refused to say and later only described the information in general terms (Smith 2004).¶ In short, official secrecy is casting a longer and longer shadow. This is sparking criticism, even from some unexpected quarters (Nakashima 2002). Rep. Dan Burton, R- Ind., has referred to President Bush as dictatorial, due to his administration’s penchant for secrecy (Baker 2002). In his new book Worse Than Watergate: The Secret Presidency of George W. Bush, John Dean, who was White House counsel in the Nixon administration, describes the current administration as “the most secretive presidency of my lifetime” (Talbot 2004). Criticism of the new moves toward secrecy is welcome, but the problem not simply partisan, and is bigger than the current president. Democratic theory has an important role to play in offering a systematic analysis of the impact of official secrecy, which in turn can be used to minimize the use of official secrecy, manage it where it must be used and mitigate its damage as much as possible.¶ Where democratic theorists have evaluated the impact of official secrecy, they have noted the salutary effects of publicity and the dangers inherent to secrecy. Jeremy Bentham (1962) devotes an entire chapter in his “Essay on Political Tactics” to the importance of publicity for legislative assemblies, calling it “the fittest law for securing public confidence, and causing it constantly to advance towards the end of its institution” (p. 310). Among the dangers of secrecy Bentham cites is this:¶ To conceal from the public the conduct of its representatives, is to add inconsistency to prevarication: it is to tell the constituents, “You are to elect or reject such of your deputies without knowing why — you are forbidden the use of reason — you are to be guided in the exercise of your greatest powers only by hazard or caprice” (p. 312). To be sure, official secrecy today is most commonly a tool wielded by appointed bureaucrats, rather than elected officials, but the basic objection still stands: It prevents citizens from effectively evaluating the performance of their government.¶ In Considerations on Representative Government, John Stuart Mill (1962) goes a step further, naming publicity as the primary function of a legislative assembly.¶ Instead of the function of governing, for which it is radically unfit, the proper office of a representative assembly is to watch and control the government: to throw the light of publicity on its acts; to compel a full exposition and justification of all of them which any one considers questionable; to censure them if found condemnable, and, if the men who compose the government abuse their trust, or fulfil it in a manner which conflicts with the direct sense of the nation, to expel them from office, and either expressly or virtually appoint their successors (p. 111).¶ In explicitly engaging the issues of secrecy and publicity, Bentham and Mill are unusual. However, it is not the case that democratic theorists are unaware of the citizens’ need for information to be effective in public life. It is simply that with the information environment being what it was prior to the evolution of contemporary regimes of secrecy within democratic states, it was quite reasonably assumed that the information citizens required was generally held in private hands. Thus the emphasis was on ensuring that privately held information could be shared unimpeded. From Milton’s (1918) defense of the institution of the free press in Areopagitica to Dahl’s (1989) inclusion of a right to free expression as a necessary institution of polyarchy, it has been rightly recognized that citizens must be free to create and exchange information for democracy to function. What has been less completely integrated into democratic theory is the idea that in addition to access to information from each other, citizens must be able to obtain state-held information to be fully actualized as citizens. However, recognizing this fact does not require an enormous leap of logic. Much of the reasoning applied to justify free expression is also applicable to arguments for publicity and against official secrecy. It is not possible to establish a right to know in the same way that a right to free expression is established. However, in examining the damages caused by official secrecy, many of them are analogous to damages caused by censorship, and it is certain that people who value democracy would desire to minimize those damages — and eliminate them whenever possible.¶ For instance, Gaetano Mosca (1939), who defines democracy so narrowly as to be little other than the circulation of elites, still holds that protecting public discussion of politics is absolutely essential:¶ People of our time have come to take for granted the advantages of a system in which all governmental acts are subject to public discussion. That alone can explain why superficial observers among our younger generations fail to realize at a glance the moral ruin that would result from the downfall of such a system. That ruin would take the form of a series of violations of juridical defense, of justice, of everything that we would call “liberty”; and those violations would be more pernicious than any that can be laid to the charge of even the most dishonest of parliamentary governments, let alone of representative governments (p. 257).¶ In Democracy and Its Critics, Robert Dahl (1989) cites free expression as part of a general moral “right to self-government.” “Freedom of speech, for example, is necessary both for effective participation and for enlightened understanding; so too are freedom of the press and freedom of assembly,” (p. 170), he writes.¶ Neither of these statements is especially surprising, and in the United States, there are few citizens or theorists who would seriously contest them. Indeed, there is a general understanding “that the first amendment is primarily designed to ensure citizen deliberation about public affairs. Under this view, the citizenry must have a significant role in government decisions, and the guarantee of freedom of expression is intended above all to promote that role” (Sunstein 1986, pp. 889-90). While it is has been rare for American courts to confront secrecy willingly and directly (“Keeping Secrets” 1990, Cooper 1986), it was this reasoning that carried the day in the Pentagon Papers case (New York Times Co. v. United States 1970), in which Justice Hugo Black wrote:¶ In the First Amendment the Founding Fathers gave the free press the protection it must have to fulfill its essential role in our democracy. The press was to serve the governed, not the governors. ... The press was protected so that it could bare the secrets of government and inform the people. Only a free and unrestrained press can effectively expose deception in government (p. 717).¶ If it is held that the free expression is intended to ensure deliberation, then free expression is valued not for a direct contribution to democracy, but because of its contribution to an intervening factor, that in turn promotes democracy. In other words, free expression is a necessary but not sufficient condition for the creation of a well-informed public. It is important, but upon further examination, it is apparent that the potential for “enlightened understanding” depends on other factors, as well. Benjamin R. Barber (1998) cites technological development as holding the potential to enhanced citizen knowledge and efficacy.¶ [D]emocracy is a form of government that depends on information and communication. It is obvious then that new technologies of information can be nurturing to democracy. They can challenge passivity, they can enhance information equality, they can overcome sectarianism and prejudice, and they can facilitate participation in deliberative political processes (p. 582).¶ The operative word here is “can.” There is no guarantee new information technology will create these outcomes, and in fact Barber recognizes it is unlikely to unless technological development is specifically guided and subsidized with these outcomes in mind. In short, new technology is neither necessary nor sufficient to create an informed public, but it has the potential to be a valuable contributing factor. This is just one example of a factor above and beyond free expression that might be valued by democratic theorists because of its contribution to a potentially informed public.¶ Publicity is another, and that being the case, official secrecy obviously becomes a major concern. By no means does publicity guarantee that citizens will become informed. However, official secrecy guarantees that they will not, at least in the areas in which there are secrets. Openness, then, is another necessary but not sufficient condition for an informed public, and as Delli Carpini and Keeter (1996) note: “In short, the informed opinions, participation, and consent of citizens is by definition the best measure of what is in the public’s interest. And the opportunities provided citizens to make such informed choices is the best measure of how democratic a system is” (p. 6). And in preventing the formation of informed opinions, official secrecy actually makes the state less democratic. Uncomfortable compromises must be made in the name of security and even national survival, but those compromises are more likely to minimize the attendant damage to democracy if they are made with a full awareness of their impact. It is the task of democratic theory now to explore and explain that impact and to create that awareness.¶ The information environment has changed radically since the 19th century, and democratic theory can no longer afford to ignore the importance of state-held information and the pernicious effects of official secrecy. It can no longer be taken for granted that by guaranteeing free speech and a free press that citizens’ need for information can be satisfied. Much larger amounts of information are held by the state than historically has been the case. Paradoxically, while this truly is an information age, it is also an age in which conditions of scarcity prevail, due to the phenomenon of official secrecy. There is a great deal of information in official hands that can be found nowhere else, and access to it is limited. Those who control access to information wield a great deal of power, and it must be recognized that this power has the potential to distort, if not stifle democratic outcomes. Even under the most felicitous of conditions, official secrecy subverts democratic citizenship. When abused — and the nature of secrecy encourages abuse — official secrecy’s impact can be even greater. As part of a greater understanding of the role information must play in self-government, democratic theory must take into account the destructive effect official secrecy has on the democratic project.

#### Secrecy makes democratic deliberation impossible- we control uniqueness- people suffering as a result of nuclear secrecy CANNOT engage the policymaking process until secrecy is removed

Gowder 2006 (Paul Gowder, J.D., Harvard Law School, 2006, “Secrecy as Mystification of Power: Meaning and Ethics in the Security State,” I/S: A JOURNAL OF LAW AND POLICY, http://pangea-icic.ifai.org.mx/National%20Security/secrecy%20as%20mystification%20of%20power.pdf)

The book is not yet closed on secrecy, for both the person who holds the secret and the object of the secrecy in the secrecy-mediated transactions discussed above are members of a democratically structured society which permits a level of ultimate command over the actions of the State. If secrecy as discussed above is a product of a legitimate process, it might be permissible as an exercise of the freedom of citizens in a democratic state to create their collective meaning via the political process.¶ This defense is unavailable to advocates of secrecy because secrecy defeats the principles of rationality which must underlie any such legitimate process. Habermas’s discourse ethics are a useful critical tool for understanding this procedural aspect of secrecy. Habermas argues that a legitimate norm is one which is reached by a rational discussion about values which provides all concerned the opportunity to assent.58 Broadly speaking, Habermas defends a technique of determining if a process for reaching agreed-upon social norms and plans of action is legitimate. The legitimate process - the "ideal speech situation" has certain characteristics, inherent in the structure of communicative action, that lend - more or less, depending on the proximity of the actual discourse to such an impossible ideal speech situation – contingent validity to the conclusions reached by the participants.¶ Habermas’s work is mirrored in the American literature, primarily by deliberative democracy theorists. I rely on Habermas here partly for consistency: his conception of discourse is based in Kantian concepts of autonomy, and he strictly holds to the principle of consent as the source of legitimacy. This is not necessarily required of deliberative democracy scholars.59 Also consistent with a consent- based framework is Habermas’s notion that a person, merely by engaging in normative communication (an engagement that is necessary to live and function in society) endorses the presuppositions of a rational argumentative process.60 Since my goal in discussing democratic deliberation is to show the conditions under which one may be said to consent to the application of secrecy to oneself, I rely solely on Habermas and avoid entry into the largely redundant American deliberationists. Nonetheless, since Habermas and the deliberationists reach roughly the same destination, those who prefer to understand the question through American rather than “continental” theory may substitute their favorite deliberative democracy work with no loss to my argument.¶ Under Habermas’s theory, the participants in a legislative enterprise, acting communicatively, inherently agree as part of their participation in the public sphere that they will give reasons for their proposed norms.61 After all, what we are concerned about here is imputing the persons who are forced to follow a law with some level of consent to it. Even in a system where one is permitted to charge each citizen with “consent” to a norm based on representative majoritarianism, some bare minimum of respect for individual autonomy must be retained for the notion of “consent” to have meaning. If advocates of a position wish to respect the autonomy of the other participants, as they speak in a fashion that necessarily implies an argument based on reason, they will follow constraints of honesty and rationality.¶ These ground-level honesty, rationality, and reason-giving presumptions imply some kind of travel toward a full explication of the reasons for a proposed norm. If the advocate of a norm wishes to obtain anything resembling consent, and the reasons for the proposed norm are incomplete or rely on other unarticulated reasons, a sufficient explanation to permit consent would require the advocate to give the reasons for believing his reasons, and so on ad nauseum to something that society has decided counts as consensus.62 Moreover, the reasons given must be genuinely held.63 This reason-giving is impossible to accomplish when the full nature of the acts which will be done pursuant to the norms agreed- upon are concealed by some parties to the discourse. Secrecy is inconsistent with any minimal approximation of an ideal speech situation, even in a discourse about secrecy, because even a far-from- ideal speech situation presupposes a chance to examine the effects, both past and planned, of a norm. Yet, for secrecy to achieve its proponents’ goals, those effects must be concealed. Obviously, the TSA can not defend its no-fly list by the chance of catching potential terrorists when it refuses to disclose how it determines who those potential terrorists are.

#### Their cost-benefit calculation reinforces whiteness through its rationalization of the displacement of all the “costs” onto black communities

Wenz 2001 (Peter S. Wenz, professor of philosophy and legal studies at Sangamon State University and Adjunct Professor of Medical Humanities at SIU Med, in Faces of Environmental Racism: Confronting Issues of Global Justice, page 63-67)

Cost-Benefit Analysis (CBA)¶ CBA is an economist’s version of utilitarianism, where the sum to be maximized is society’s wealth, as measured in monetary units, instead of happiness or preference satisfaction. Society’s wealth is computed by noting (and estimating where necessary) what people are willing to pay for goods and services. The more people are willing to pay for what exists in society, the better off society is, according to CBA.¶ CBA will characteristically require placement of toxic wastes near poor people. Such placement usually lowers land values (what people are willing to pay for property). Land that is already cheap, where poor people live, will not lose as much value as land that is currently expensive, where wealthier people live, so a smaller loss of social wealth attends placement of toxic wastes near poor people. This is just the opposite of what the Principle of Commensurate Burdens and Benefits requires.¶ The use of CBA also violates equal consideration of interests, operating much like free market approaches. Where a vital concern is at issue, equal consideration of interests requires that people be considered irrespective of income. The placement of toxic wastes affects vital interests. Yet CBA would have poor people exposed disproportionately to such wastes.’4¶ In sum, libertarianism, utilitarianism, free market distribution, and cost-benefit analysis are inadequate principles and methodologies to guide the just distribution of toxic wastes.

### 2AC 2ND DA

#### Not an existential threat – no overreaction

John Mueller (Woody Hayes Chair of National Security Studies, Mershon Center, and is professor of Political Science, at Ohio State University) 2010 “Atomic Obsession: Nuclear Alarmism from Hiroshima to Al Qaeda” p. 232

From this perspective, then, rhetorical declamations insisting that terrorism poses an existential threat are profoundly misguided. And so self-destructive overreactions (like the war in Iraq) which are also encouraging to the terrorists. As Osama bin Laden crowed in 2004: It is easy for us to provoke and bait .... All that we have to do is to send two mujahidin ... to raise a piece of cloth on which is wtitten al-Qaeda in order to make the generals race there to cause America to suffer human, economic, and political losses. Our policy is one -...... of bleeding America to the point of bankruptcy. The terrorist attacks cost al-Qaeda $500,000 while the attack and its aftermath .. inflicted a cost of more than $500 billion on the United States. .... Or perhaps, it is even worse. To the extent that we "portray the terrorist nuclear threat as the thing we fear most," notes Susan Martin, "we ow--. ture the idea that this is what terrorists must do if they want to be taka. ; seriously:'48 Existential bombast can be useful for scoring political points, selling. newspapers, or securing funding for pet projects or bureaucratic expansion. However, it does so by essentially suggesting that, if the terrorists really want to destroy us, all they have to do is hit us with a terrific punch, particularly a nuclear one. Although the attack may not in itself be remotely" enough to cause the nation to cease to exist, purveyors of bombast assure the terrorists that the target country will respond by obligingly destroying itself in anguished overreaction. The suggestion, then, is that it is not ' only the most feared terrorists who are suicidal. As Sageman points out, the United States hardly faces a threat to its existence, because even a nuclear strike by terrorists "will not destroy the nation:' As things stand now, he.. adds, "only the United States could obliterate the United States:'49 Atomic terrorism may indeed be the single most serious threat to the national security of the United States. Assessed in an appropriate context, however, the likelihood that such a calamity will come about seems breathtakingly small. Sensible, cost-effective policies designed to make that probability even lower may be justified, given the damage that can be inflicted by an atomic explosion. But unjustified, obsessive alarmism about the likelihood and imminence of atomic terrorism has had policy consequences that have been costly and unnecessary. Among them are the war in Iraq and the focus on WMD that seduced federal agencies away from due preparation 5o for disasters that have actually happened, such as Hurricane Katrina. Arch-demon Zawahiri once noted that the group only became aware of biological weapons "when the enemy drew our attention to them by repeatedly expressing concerns that they can be produced simply with easily available materials;'5! By constantly suggesting that the United States will destroy itself in response to an atomic explosion, the existential bombast about a terrorist bomb that follows so naturally from decades of atomic obsession encourages the most diabolical and murderous terrorists to investigate the possibility of obtaining one. Fortunately, however, would-be atomic terrorists are exceedingly unlikely to be successful in such a quest, however intense the inspiration and encouragement they receive from the unintentional cheerleaders among their distant enemies.

#### Their securitization replaces valuation with calculation, causing unending cycles of violence

Dillon 1996 [Michael, professor Politics and International Relations at the University of Lancaster, *The Politics of Security*,pp. 20-22]

The reduction of metaphysics, and so also of political understanding, to calculation, results from the very inception of metaphysical thought. Because the appearance of things is inevitably various, because we ourselves always encounter them from a manifold of perspectives and because, finally, we ourselves are also mortal and fallible creatures, whatever the secure ground of things is that metaphysics seeks, it cannot actually be the sensible world of the appearance of things themselves. For they are too…well, insecure. It has, ultimately, to be suprasensible, situated outside the realm of the appearance of things, otherwise the ground that is sought would be as mutable (read insecure) as the coming and going, and apparently endless variation, of the world itself. It could not serve, therefore, as the guarantor which the answer to metaphysics’ guiding question requires. Literally, it could not offer any security for the sensible world of appearances if it were already located within, and therefore also contaminated by, the very insecurity of the comings and goings of that world. Metaphysics, then, is the masque of mastery; securing some foundation upon which to establish the sum total of what is knowable with certainty, and conforming one’s everyday conduct—public and private—to the foundation so secured. Such foundations may go by different names but that of the project itself does not. Hence, the responsibility, traditionally incumbent upon the philosopher—his ‘true’ mission—consisted in securing ultimate referents or principles. Philosophy was, as Nietzsche put it, a matter of valuation, ‘that is, establishment of the uppermost value in terms of which and according to which all beings are to be’.14 In as much as these were precisely what were to be secured, for without them no beings would be, without them, it was said, where would we be? The philosopher therefore spoke as a security expert. A security expert not merely in respect of what the substantial values were, but increasingly only in terms of how they were to be Security, philosophy and politics 21 secured, whatever they were to be taken to be; hence the rise of theory and of method. The philosopher became a security expert, then, in the sense of being able to tell you how to secure security. He or she was someone skilled in determining the means by which the invariable standards to establish meaning in discourse, soundness in mind, goodness in action, objectivity in knowledge, beauty in art, or value in life were to be secured (guaranteed). In such wise, whatever was said— meant; done; understood; esteemed; or valued—was authorised and secured by reference to such a standard, principle or reference. The philosopher’s task had to be to tell you how to secure such a thing even after they had come-up with an essential value of one description or another. Their security project could not then cease, but only intensify. For having secured this secure value, the value then had to be located securely, and securely policed, so that it could never be forgotten or lost again. Even with Nietzsche, in order for the will to power, as the essence of the Being of beings, to secure itself it has continuously to extend itself; that is to say, it secures itself in its essence as never-ending increase continuously extending itself. Hence, though Nietzsche’s will to power may be differentiated as self-overcoming— against the Darwinian, or even Spinozan, principle of self-preservation— it is arguable that this represents the security project à l’outrance. The charge levelled at philosophy at the end of metaphysics—the ‘end of philosophy’ thesis which has consequently turned philosophical thought into a contemplation of the limit; where limit is, however, thought liminally and not terminally—is that the philosopher has simply run out of things to say. It is that the philosopher cannot, in fact, secure any particular value for you and is, therefore, confronted with the manifest impossibility of discharging the traditional security function, other than to insist upon securing security itself. All that remains of the great project of Western philosophy, then, is the continuing, increasingly violent, insistence upon the need to secure security; hence its nihilism. The savage irony is that the more this insistence is complied with, the greater is the violence licensed and the insecurity engendered. The essence of metaphysics, then, is nihilistic, as the best of the realists fear that it is, precisely because it does not matter what you secure so long as security itself is secured. That is to say, so long as things are made certain, mastered and thereby controllable. Securing security does not simply create values. In essence indifferent to any particular value, and committed as it must ultimately be merely to rendering things calculable so that the political arithmetic of securing security can operate, it must relentlessly also destroy values when they conflict with the fundamental mathesis required of the imperative to secure. Its raison d’être, in other words, masquerading as the preservation of values, is ultimately not valuation at all but calculation. For without calculation how could security be secured? And calculation requires calculability. Whatever is must thereby be rendered calculable—whatever other value might once have been placed upon it—if we are to be as certain of it as metaphysics insists that we have to be if we are to secure the world. Western understanding of the political is, therefore, continuously suborned by metaphysics’ will to the calculative truth of correspondence, and its various regimes of power and knowledge to which Foucauldian genealogy alerts us. It is consequently Foucault’s indebtedness not only to Nietzsche but also to Heidegger which antecedes, while it remains nonetheless integrally related to, the task of genealogy.15 In order to pursue the recovery of the question of the political from metaphysics, therefore, I not only have to be able to pose the question which I have used Foucault to pose, I have to use it to bring security into question and explore that question through the sources which Foucault himself drew upon. Metaphysics is itself unwittingly an aid here, for it bears its own deconstruction within itself. Consider the outcome of the guiding question—why is there something rather than nothing?—for with its closure we are challenged to rethink the question.

### 2AC Capitalism

#### Only the perm solves- Left colorblindness dooms the alt and guarantees continued violence against people of color

Olson 2010 (Joel Olson, Associate Professor in the Department of Politics and International Affairs at Northern Arizona University and member of the Arizona chapter of Bring the Ruckus, “Whiteness and the 99%,” End of Capitalism, http://endofcapitalism.com/2012/01/18/whiteness-and-the-99/)

Occupy Wall Street and the hundreds of occupations it has sparked nationwide are among the most inspiring events in the U.S. in the 21st century. The occupations have brought together people to talk, occupy, and organize in new and exciting ways. The convergence of so many people with so many concerns has naturally created tensions within the occupation movement. One of the most significant tensions has been over race. This is not unusual, given the racial history of the United States. But this tension is particularly dangerous, for unless it is confronted, we cannot build the 99%. The key obstacle to building the 99% is left colorblindness, and the key to overcoming it is to put the struggles of communities of color at the center of this movement. It is the difference between a free world and the continued dominance of the 1%.¶ Left colorblindess is the enemy¶ Left colorblindness is the belief that race is a “divisive” issue among the 99%, so we should instead focus on problems that “everyone” shares. According to this argument, the movement is for everyone, and people of color should join it rather than attack it.¶ Left colorblindness claims to be inclusive, but it is actually just another way to keep whites’ interests at the forefront. It tells people of color to join “our” struggle (who makes up this “our,” anyway?) but warns them not to bring their “special” concerns into it. It enables white people to decide which issues are for the 99% and which ones are “too narrow.” It’s another way for whites to expect and insist on favored treatment, even in a democratic movement.¶ As long as left colorblindness dominates our movement, there will be no 99%. There will instead be a handful of whites claiming to speak for everyone. When people of color have to enter a movement on white people’s terms rather than their own, that’s not the 99%. That’s white democracy.

#### No link- no way the aff has increased capitalism in this debate space

#### Racism predates capitalism and the alt cannot solve the aff

Rojek 1999 (Chris Rojek, Professor of Sociology and Culture¶ Sociology and Communications at Brunel University in London, “Decentring Leisure: Rethinking Leisure Theory,” gbooks)

References to race and racism in the work on leisure of cultural studies writers has been little more than perfunctory. Clarke and Critcher (1985: 152-3) deplore the paucity of primary research material on the subject. They confine themselves to a few generalities about the 'probable' specific 'contextualizations' of ethnic leisure patterns, the unequal access to leisure resources of ethnic minorities and the racial prejudice of some segments of the traditional white working class. Race is recognized as a structural influence in the organization of leisure behavior. However, in so far as it is dealt with at all racism is understood to be the expression of the commodification process of capitalism. Incidentally, this is why I have situated the subjects of race and racism in this section of the book. Clarke and Critcher appear to be saying that racism is produced by capitalism.¶ However, this position is vulnerable to criticism on a number of counts. In the first place, it is by no means clear that race can be treated as a simple product of capitalism. Said (1978) notes the presence of racist stereotypes in the propaganda of Christian Crusaders. Similarly, Hughes (1993: 140-7) observes that the Muslim trade in African slaves was well established in the first millennium AD. This work relates racism to the emergence of religious formations, ethnic identities and nation-states- all of which pre-date capitalism. If this is correct it follows that the overthrow of capitalist rule should not necessarily be theorized as coinciding with the elimination of racism. Racist divisions have different roots and to understand them the problematic of the capitalist mode of production is not sufficient. Second, Clarke and Critcher's position implies that race is a dependent variable of class. They understand the central division of society to be between the owners and controllers of the means of production and the propertyless. But it is far from clear that race can be subsumed under class in this way. The divisions within working-class ethnic minorities such as Sikhs, Afro-Caribbeans, Chinese, Hispanics and so forth suggest that it is not credible to entertain a politics of collective mobilization for these sections of society. Rather than speak of nascent class solidarity, what one sees here is the vigorous espousal of specific cultural characteristics and the development of a micro-politics of ethnic pride and self-determination. Third, the leisure forms prevalent in these ethnic groupings are extremely diverse. They reflect a wide range of strategies of conciliation and reaction to the host (white) culture. If ethnic leisure forms do operate as foci of social integration by asserting and concentrating ethnic identities it is not easy to see how the common denominator of proletarianization can be squeezed out of them. In general, Clarke and Critcher's treatment of race and leisure bears out Miles' (1993: 27) complaint that 'Marxist theory has experienced difficulties in attempting to comprehend and explain the expression and consequences of racism.'

#### Solving secrecy is a prerequisite to anticapitalism, otherwise capitalist elites crush the alt- Obviously, people near nuclear plants can’t join the revolution because they don’t have knowledge of their situation and the capitalists/corporations repsonsible

Govender 2010 (Pregs Govender, Deputy Chair of the South African Human Rights commission, “Secrecy is a Weapon of Oppression,” Amandla Magazine, http://amandlapublishers.co.za/special-features/debating-media-freedom/451-secrecy-is-a-weapon-of-oppression)

"What happens when the poor lose faith in democratic institutions - when their requests are not heeded and their opinions are not taken into account? People know that budgets (from National to Local Government) reflect policy priorities and choices. They reflect, more than any rhetorical speech, who and what is valued...or not. People want to know the basis for Government’s choices"¶ Secrecy has been and remains integral to the oppression of people and to the exploitation of land and mineral resources across the world. Colonisation, genocide, slavery and Apartheid were all dependent on secrecy. Those who abuse power depend on secrecy to deny others their rights – within and through states, corporations, religious, traditional, health, educational and media institutions as well as homes and families.¶ Secrecy enabled Apartheid

to create a highly militarised, authoritarian, unjust and unequal society. Those who exposed its secrets were detained, banished or killed by its security and intelligence forces. However, Apartheid seldom completely silenced their voices. From Ruth First to Steve Biko, their examples inspired and laid the foundation for our right to freedom of expression.¶ In the 80’s and early 90’s, poor women in urban and rural areas, shared information, united and stood against soldiers, vigilantes and oppressive chiefs and husbands. Information was critical to struggles for the right to life; freedom from violence; land, decent housing, healthcare, education, sanitation, water and other socio-economic rights. On the factory floor, bosses could not plead poverty because workers had accessed information about their massive profits and salaries.¶ The world’s citizens were mobilized by information on how their money was used by their country’s banks, mining and arms industries to serve Apartheid. Ruth First’s expose of farm-owners in Bethal entrenched a tradition of investigative journalism that revealed who carried the real cost. Despite Thatcher and Reagan’s powerful media machine that described Mandela as, ‘the terrorist who should hang,’ their informed citizens stood in solidarity against Apartheid.¶ SA’s democracy adopted a Constitution that signaled a significant shift from the culture of secrecy that characterized our Apartheid, capitalist and patriarchal past to an open, free society characterized by democratic transparency and accountability. It proclaimed that: ‘Everyone has the right of access to any information held by the state; and any information that is held by another person and that is required for the exercise or protection of any rights.’

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#### Reasonability- avoids race to the bottom- specific evidence

MME 2012 (Mexican Ministry of Economy, March 2012, “Other Appellant Submission of Mexico,” UNITED STATES – CERTAIN COUNTRY OF ORIGIN LABELLING REQUIREMENTS, http://www.economia.gob.mx/files/comunidad\_negocios/comercio\_exterior/solucion\_controversias/EDO.EDO/ORGANIZACION%20MUNDIAL%20DE%20COMERCIO/Participaci%C3%B3n%20de%20M%C3%A9xico%20como%20reclamante/EU\_COOL/20COMUNICACIONDELOTROAPELANTEDEMEXICO.pdf)

52. The ordinary meaning of “restrictive” is “imposing restrictions”63 “[i]mplying, conveying or expressing restriction or limitation” and “[h]aving the nature or effect of a restriction; imposing a restriction.”64 The term “restriction” is defined as “the act or an instance of restricting; the state of being restricted”65 and as “[a] thing which restricts someone or something, a limitation on action, a limiting condition or regulation.”66 The term “restrict” is defined as “confine, bound, limit”.67 53. The meaning of “restriction” has been elaborated upon in jurisprudence concerning other WTO provisions. The term “restriction” should not be given a narrow meaning. A “disguised restriction” in the context of Article XX of the GATT 1994 has been interpreted to include “disguised discrimination in international trade”.69 In the context of Article XI and other non-discrimination provisions of the GATT 1994, it has been found that GATT disciplines on the use of restrictions are not meant to protect “trade flows”, but rather the “competitive opportunities of imported products”.70 In Argentina – Hides and Leather, the Panel found that in determining whether a measure makes effective a restriction in the context of Article I, II, III and XI:1 of the GATT 1994 the focus is on the competitive opportunities of imported products, not the trade effects. That panel considered that the complaining party claiming the existence of a restriction need not prove actual trade effects.

#### Precision: restrictions CANNOT be solely prohibitions

WTO 2009 (WTO Panels, April 27, 2009, “COLOMBIA – INDICATIVE PRICES AND RESTRICTIONS ON PORTS OF ENTRY,” http://www.worldtradelaw.net/reports/wtopanels/colombia-portsofentry(panel).pdf)

7.233 WTO panels have interpreted the term "restriction" in Article XI:1 broadly. The panel in India – Quantitative Restrictions discussed the scope of the notion of "restriction" in terms of its ordinary meaning:¶ "[T]he text of Article XI:1 is very broad in scope, providing for a general ban on import or export restrictions or prohibitions 'other than duties, taxes or other charges'. As was noted by the panel in Japan – Trade in Semi-conductors, the wording of Article XI:1 is comprehensive: it applies 'to all measure instituted or maintained by a [Member] prohibiting or restricting the importation, exportation, or sale for export of products other than measures that take the form of duties, taxes or other charges.'[footnote omitted] The scope of the term 'restriction' is also broad, as seen in its ordinary meaning, which is 'a limitation on action, a limiting condition or regulation'."459¶ 7.234 The panel in India – Autos subsequently endorsed the view set forth in India – Quantitative Restrictions that a measure which imposes a "limiting condition" or imposes a "limitation on action" constitutes a "restriction" within the meaning of Article XI:1:¶ "The question of whether [the] measure can appropriately be described a restriction on importation turns on the issue of whether Article XI can be considered to cover situations where products are technically allowed into the market without an express formal quantitative restriction, but are only allowed under certain conditions which make the importation more onerous than if the condition had not existed, thus generating a disincentive to import.¶ On a plain reading, it is clear that a 'restriction' need not be a blanket prohibition or a precise numerical limit. Indeed, the term 'restriction' cannot mean merely 'prohibitions' on importation, since Article XI:1 expressly covers both 'prohibition or restriction'. Furthermore, the Panel considers that the expression 'limiting condition' used by the India – Quantitative Restrictions panel to define the term 'restriction' and which this Panel endorses, is helpful in identifying the scope of the notion in the context of the facts before it. That phrase suggests the need to identify not merely a condition placed on importation, but a condition that is limiting, i.e. that has a limiting effect. In the context of ArticleXI, that limiting effect must be on importation itself." 460¶ 7.235 In terms of the ordinary meaning of the term "restriction", the Panel notes that the discussion in India – Quantitative Restrictions and India – Autos correlates closely with dictionary definition of the term "restriction", which is "a thing which restricts someone or something, a limitation on action, a limiting condition or regulation".461 Several subsequent panels have coalesced around this interpretation of the scope of Article XI:1, citing to the language set forth by these earlier panels while factoring in the circumstances of each dispute.462¶ 7.236 Panels have also considered the concept of "restriction" in light of factors other than the ordinary meaning of the term. Notably, panels have also considered whether a measure makes effective a restriction by evaluating the measure's impact on competitive opportunities available to imported products. In this respect, the panel in Argentina – Hides and Leather recalled that "Article XI:1, like Articles I, II and III of the GATT 1994, protects competitive opportunities of imported products not trade flows".463 Consideration of a measure's effect on competitive opportunities, instead of effects on trade volumes, was earlier discussed in Japan – Leather, in which a GATT panel rejected the view that a quota should not be considered as restraining trade or causing nullification or impairment of benefits accruing under Article XI of the GATT 1947 simply because the quota had not been fully utilized and thus could not have negatively affected trade volumes. The panel explained that nullification or impairment arises from prohibited quantitative restrictions, not only due to effects on trade volumes, but also because importers investment plans would be affected negatively and transaction costs would increase:¶ "[T]the existence of a quantitative restriction should be presumed to cause nullification or impairment not only because of any effect it had had on the volume of trade but also for other reasons, e.g. it would lead to increased transaction costs and would create uncertainties which could affect investment plans."464

### CP

#### Utilitarianism fails in this instance because it assumes you know what the secret is

Gowder 2006 (Paul Gowder, J.D., Harvard Law School, 2006, “Secrecy as Mystification of Power: Meaning and Ethics in the Security State,” I/S: A JOURNAL OF LAW AND POLICY, http://pangea-icic.ifai.org.mx/National%20Security/secrecy%20as%20mystification%20of%20power.pdf)

The academic (particularly legal academic) and public discourse on government secrecy is overwhelmingly produced in the mode of utilitarian expediency. The underlying assumption seems to be that secrecy is merely a question of strategy, or instrumental reason, and that we are free to conceal the behavior of the State from its citizens if the costs of such action outweigh the benefits. Thus, the typical discussion of secrecy – even from opponents of secrecy – limits itself to analyzing the effect of secrecy on one or more of a fairly well-trod set of “goods,” ordinarily: state security, physical safety, efficient markets, scientific research, judicial accuracy, public trust in government, or official accountability.2 Even those that choose to term their approaches “ethical”3 provide a loophole not only for grudgingly using secrecy, but even for endorsing it: if the act is “really necessary,” 4we hold open the possibility of calling the act “justifiable.” At times, even those opposing other forms of governmental overreaching in a consequentialist mood find themselves opening the door to extreme versions of secrecy.5¶ Yet utilitarian conceptions of secrecy miss something important– our distinguishing human value, the root of the “good” that they seek to maximize: meaning. Even if the “good” at issue is “preference satisfaction,” the question remains: where is the self transcendent value? Phrased differently, what reason have we to believe that the products of human consciousness are worth something, in some non- solipsistic calculus, to make our preferences worth satisfying?6 This is a question that utilitarians are traditionally not very good at answering, but one that, I suggest, gives us a path into a non-utilitarian ethics that may be suited to an examination of state secrecy.¶ The non-utilitarian approach actually has a utilitarian justification. As a practical matter, utilitarian arguments in favor of secrecy are likely to be given irrationally disproportionate weight in the political marketplace versus utilitarian arguments against secrecy, regardless of their relative merit.7 Current psychological research suggests that the public is likely to react irrationally to the unusual salience of the September 11, 2001 attacks.8 Researchers have found empirical evidence that 9/11 salience affects our voting behavior.9 More generally, mortality salience has been shown to increase people’s in- group identification and consequent hostility toward perceived outsiders (like Muslims) – and this is hardly an optimistic scenario10 for dealing with secrecy (particularly if believed to be likely to manifest as profiling of disfavored groups) on a cost-benefit basis.11 As a consequence, it is unlikely that a public motivated by fear and mortality salience will make political decisions relating to perceived terror risk in accordance with the principle of utility maximization, even with the benefit of a full consequentialist public discourse on the matter.12¶ On the other hand, approaching the question on the basis of universal deontological ethical duties might cause the public and policymakers to pause and consider their policies in a mode beyond hasty reaction to fearful events. The mere act of publicly considering the non-utilitarian ethics of state secrecy (and other political responses to terror) might serve to moderate the rush to policies driven by in- group identification and mortality salience.

### Terror DA

#### Any move for retaliation is posturing – Obama wont follow through

Michael Crowley (Senior Editor the New Republic) January 2010 “Obama and Nuclear Deterrence”, http://www.tnr.com/node/72263

The Los Angeles Times ran an important story yesterday about the Obama administration's Nuclear Posture Review, which evaluates U.S. policy towards the use of nuclear weapons. Apparently there's a debate inside the administration--one that is splitting the civilians from the generals--not just about the size of our nuclear stockpile but also how we conceive of possible first-strike and retaliatory policies. A core issue under debate, officials said, is whether the United States should shed its long-standing ambiguity about whether it would use nuclear weapons in certain circumstances, in hopes that greater specificity would give foreign governments more confidence to make their own decisions on nuclear arms. Some in the U.S. argue that the administration should assure foreign governments that it won't use nuclear weapons in reaction to a biological, chemical or conventional attack, but only in a nuclear exchange. Others argue that the United States should promise that it would never use nuclear weapons first, but only in response to a nuclear attack. As the story notes, some experts don't place much weight on how our publicly-stated doctrine emerges because they don't expect foreign nations to take it literally. And the reality is that any decisions about using nukes will certainly be case-by-case. But I'd still like to see some wider discussion of the underlying questions, which are among the most consequential that policymakers can consider. The questions are particularly vexing when it comes to terrorist groups and rogue states. Would we, for instance, actually nuke Pyongyang if it sold a weapon to terrorists who used it in America? That implied threat seems to exist, but I actually doubt that a President Obama--or any president, for that matter--would go through with it.