# AC – Noncitizens

## 1AC – Structural Violence

### FW

#### The standard is mitigating structural violence.

#### Structural violence is based in moral exclusion, it pervades our cognitive processes and encourages us to ignore differences in identity.

Winter and Leighton 99 [Deborah DuNann Winter and Dana C. Leighton. Winter|[Psychologist that specializes in Social Psych, Counseling Psych, Historical and Contemporary Issues, Peace Psychology. Leighton: PhD graduate student in the Psychology Department at the University of Arkansas. Knowledgable in the fields of social psychology, peace psychology, and justice and intergroup responses to transgressions of justice] “Peace, conflict, and violence: Peace psychology in the 21st century.” Pg 4-5]

She argues that our normal perceptual cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love or know is barely noticed if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so we draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer. Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects.Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence. All the authors in this section note that the same structures (such as global communication and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it. In the long run, reducing structural violence by reclaiming neighborhoods, demanding social justice and living wages, providing prenatal care, alleviating sexism, and celebrating local cultures, will be our most surefooted path to building lasting peace.

### Adv 1 – Deportations

#### Mass deportations coming – judge quotas. Helm 4/3

Helm, Angela. “Deport Dem! Trump Administration Imposes Quotas on Immigration Judges.”The Root, Www.theroot.com, 3 Apr. 2018, www.theroot.com/deport-dem-trump-administration-imposes-quotas-on-immi-1824293202. Ms. Bronner Helm is Contributing Editor at The Root. //nhs-VA

On Friday, the U.S. Justice Department, under Jefferson Beauregard Sessions, notified all U.S. immigration judges that their job-performance evaluations will be tied to how quickly they close cases, saying that the aim is to reduce a lengthy backlog of deportation decisions. Sessions says that the current backlog allows those facing charges to stay in the U.S. longer than they should, though most languish in substandard detention centers. The stated reason for the new policy is to reduce backlog, yet the effect will surely be higher rates of deportations. Unlike judges in regular courts, immigration judges work for the executive branch and, in this case, the Justice Department. Since he’s taken office, Donald Trump’s administration has also sought to expand “expedited removal orders,” which currently are used if individuals are arrested within 100 miles of U.S. borders and if they’ve been inside the U.S. two weeks or less. They do not see a judge. [USA Today reports](https://www.usatoday.com/pages/interactives/graphics/deportation-explainer/) that the Trump recommendation for expansion includes making expedited removal nationwide (that is, you can face it if you are caught anywhere within the U.S.), and used if persons have been in the U.S. less than two years. The new standards for immigration judges will go into effect Oct. 1, [according to the Wall Street Journal](https://www.wsj.com/articles/immigration-judges-face-new-quotas-in-bid-to-speed-deportations-1522696158). It reports: Under the new quotas, judges will be required to complete 700 cases a year and to see fewer than 15 percent of their decisions sent back by a higher court. Over the past five years, the average judge completed 678 cases in a year, said Justice Department spokesman Devin O’Malley. But there was a range, he said, with some judges completing as many as 1,500 cases in a year. In addition, they will be required to meet other metrics, depending on their particular workload. One standard demands that 85 percent of removal cases for people who are detained be completed within three days of a hearing on the merits of the case. Another metric demands that 95 percent of all merits hearings be completed on the initial scheduled hearing date.

#### They’ll encourage and sign off on prosecutorial plea bargains – Sessions is pushing for it. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

ATTORNEY GENERAL JEFF Sessions is pushing federal prosecutors to bypass immigration courts as part of the Trump administration’s hard-line strategy on deportation. Behind closed doors, prosecutors are pressing noncitizens to sign away their rights to make a case for remaining in the country. In the most dramatic cases, immigrants charged with crimes are signing plea agreements in which they promise they have “no present fear of torture” on returning to their home country. The pleas can block them from seeking asylum or protection from persecution. While plea agreements such as these are not entirely new — and are difficult to track — some defense attorneys who specialize in immigration fear they will become commonplace under Sessions. They’re also concerned prosecutors will push them for minor crimes that previously might not have led an immigration judge to order deportation. Immigration experts question the fairness of such provisions in plea agreements and even their overall constitutionality. Some say they might violate international treaties. Susan Church, an attorney who was one of the first to sue the government over President Donald Trump’s executive orders, said the leverage prosecutors hold at the plea-bargaining table heightens the risk of abuse. “Obviously I have seriously grave concerns about eliminating the small level of due process that’s afforded to immigrants in immigration court,” she said. “They absolutely should not be proposed as part of a plea agreement.” An examination of court records, memos from the Department of Justice, and other documents, as well as interviews with lawyers, suggest federal prosecutors are increasingly likely to demand plea bargains in which noncitizens sign away these due process rights. In one recent case in Massachusetts, the prosecutor said the provisions were “non-negotiable,” according to the defendant’s attorney. In a memo in April, Sessions directed all federal prosecutors to place higher priority on certain immigration offenses, including improper entry, illegal re-entry, and unlawful transportation of undocumented immigrants. He further instructed prosecutors, when possible, to seek “judicial orders of removal” that enable federal judges to order deportation without any hearing in immigration court. “I know many of you are already seeking these measures from District Courts,” Sessions wrote. “I ask that you continue this effort to achieve the results consistent with this guidance.” Three months later, in his regular bulletin to U.S. attorneys, Sessions invited attorneys from Immigration and Customs Enforcement to share tips on what they called a “game-changer”: Make deportation part of plea agreements offered to noncitizens charged with crimes. This “seldom used” strategy would “offer a powerful and efficient tool for prosecuting criminal aliens — one that provides enormous value to the Department of Homeland Security (DHS) and furthers new Department of Justice policy,” the how-to memo stated. It went on to list benefits, including using the waivers “as a bargaining chip to negotiate a plea with a defendant who is less interested in fighting removal than in litigating the prison sentence.” Michael Cohen, a former federal prosecutor who is now a criminal defense attorney in Florida and New York, said he had heard about the Justice Department’s new strategy but has yet to see it in action. He said he would be extremely hesitant to advise a client to sign such a waiver. However, Cohen said, an individual prosecutor might not have the same discretion in light of the administration’s directives. “You’re duty-bound to follow your office’s policies,” he said. “I understand that.” Devin O’Malley, a spokesperson for the Justice Department, said these types of plea agreements can “increase the efficiency of the immigration court system, save Americans’ tax dollars, and promote good government.” “This common-sense commitment to the rule of law will help reduce pressure on the immigration court pending caseload that has more than doubled since 2011,” O’Malley said in an email. While district offices declined to discuss plea waiver language, materials from a Senate Judiciary Committee hearing in 2008 pointed to how some prosecutors might be “hesitant to use it as a general practice.” The same report noted the rarity with which plea agreements had been used to order the deportation of immigrant defendants: 160 times between fiscal year 2002 and fiscal year 2008. In the same time period, ICE removed more than 1 million people, according to data analyzed by the Transactional Records Access Clearinghouse, run by Syracuse University. Donna Lee Elm, who is in charge of federal public defenders in the Middle District of Florida and an expert on plea bargain waivers, said the Justice Department’s new tactics are affecting many people who “actually should be entitled to be heard in immigration court.” “They’re using the hammer of threat of prosecution and a long prison sentence to give up the rights in an immigration case,” she said. Waiving a hearing in immigration court is not trivial. In the past five years, about 30 percent of noncitizens charged with crimes have succeeded in convincing an immigration judge to let them stay in the country, according to TRAC data. Elm said some of the plea agreements likely are violating decades-old international treaties, in which the federal government vowed to enable people to seek asylum in this country. “You can’t waive that — it’s not like waiving the right to trial,” she said. “They just didn’t think these through.”

#### Asylum seekers are already being offered deportation in a plea deal. Walsh 12/21

Walsh, Sean Collins. “Trump Immigration Crackdown Targets Central Americans Seeking Asylum.” Mystatesman, Austin American Statesman, 21 Dec. 2017, www.mystatesman.com/news/national-govt--politics/trump-immigration-crackdown-targets-central-americans-seeking-asylum/6vXXIaPccreYAYRS5tzWSN/. Sean Collins Walsh reports on state government and politics for the American-Statesman. //nhs-VA

In its crackdown on illegal immigration, President Donald Trump’s administration has made a series of policy changes that lawyers and advocates say are trampling the rights of a group of immigrants who did not cross the border illegally: asylum-seekers. The results so far this year have been dramatic: Immigration judges, who are employed by the Justice Department and not the judicial branch like other federal judges, rejected 61.8 percent of asylum cases decided in 2017, the highest denial rate since 2005. Under U.S. law and international treaty obligations, people who fear persecution or violence in their home countries have a right to seek asylum protection, which is similar to refugee status, regardless of how they entered the country. Trump and Attorney General Jeff Sessions, however, have sought to deter newly arrived foreigners from seeking refuge in the United States in part by using criminal laws to punish people who advocates say should not be treated as criminals. “They’re just not letting them in the legal process to seek asylum,” said Olga Byrne, a senior associate at Human Rights First, which has documented cases of asylum-seekers being wrongfully turned away. “They’re just funneled into the criminal justice system, charged with illegal entry and offered a plea bargain.” Although most asylum-seekers crossing the U.S. southern border hail from Honduras, El Salvador and Guatemala — which have the first-, fourth- and fifth-highest murder rates in the world, according to the United Nations — the administration views the recent wave of Central Americans looking for protection not as a humanitarian crisis but as people trying to game the U.S. immigration system. “Unfortunately, this system is currently subject to rampant abuse and fraud,” Sessions said in an October speech. “And as this system becomes overloaded with fake claims, it cannot deal effectively with just claims. The surge in trials, hearings, appeals, bond proceedings has been overwhelming.” To stem the tide, the administration has significantly restricted the asylum system: • Through an executive order, Trump made it more difficult for immigrants to succeed in what are known as “credible fear interviews,” the first step in the process, by instructing asylum officers to be more critical of immigrants’ claims that they have a legitimate fear of violence or persecution if they return to their home countries. • Customs and Border Protection officials are misinforming immigrants who arrive at border entry points about what U.S. law offers asylum-seekers and are turning them away without allowing them to make their cases, according to a lawsuit filed in a California federal court. • On Sessions’ orders, federal prosecutors are speedily trying more border-crossers on illegal immigration charges in criminal courts, leading many who are seeking asylum to be deported without their asylum cases reaching immigration courts. Some prosecutors are pushing plea deals that force defendants to drop their asylum claims. • The federal government is increasing the number of asylum-seekers who are being held in detention during the years-long wait for their cases to be heard in immigration court, a practice that a New York federal court recently ruled violates their rights by denying them bail. The question of how to handle asylum-seekers reflects a problematic dynamic for the Trump administration as it uses old tools to confront a new reality at the border. Asylum requests skyrocket More than half of the 311,000 immigrants apprehended at the border last year were from Central America — just the second time Mexicans were not the majority. The first was in 2014. Asylum applications, meanwhile, have skyrocketed, from 57,000 in 2014 to more than 116,000 in 2016, according to U.S. Citizenship and Immigration Services data. The immigration laws at the disposal of federal prosecutors were crafted primarily to address unauthorized immigrants from Mexico, who generally try to avoid authorities and rarely pursue asylum. Since 2014, however, the driving force behind unauthorized border crossings is Central Americans who readily turn themselves in to authorities to seek asylum from gang violence back home. Many arrive as families or unaccompanied children. Denise Gilman, who runs the University of Texas Law School’s immigration clinic, said it’s no accident that the federal government is funneling asylum-seekers into criminal courts despite this new reality. “The more they can make asylum-seekers look and feel like criminals to the public, the easier it is for them to justify detention and rapid deportation,” Gilman said. “It’s intentional.” The White House did not respond to a request for comment. Proponents of strict immigration enforcement argue that the asylum process is ripe for fraud and could be used by terrorists to enter the country because it is difficult for asylum officers and immigration judges to verify or disprove applicants’ claims. “Given its susceptibility to fraud, the credible fear process is particularly vulnerable to exploitation by individuals or groups seeking to do harm to the United States, by traffickers seeking to bring victims to the United States, and by economic migrants seeking employment opportunities,” Andrew Arthur, a resident fellow at the Center for Immigration Studies, which advocates for less immigration, wrote in an April article. Fear of violence discounted To win asylum, immigrants must prove that, if returned to their home countries, they would be targeted or persecuted on the basis of “race, religion, nationality, membership in a particular social group, or political opinion,” according to U.S. law. While many Central Americans in El Salvador, Guatemala and Honduras face violence at home, they have had little success convincing U.S. immigration judges that they should be considered members of one of those protected groups. From 2012 to 2017, Salvadorans were denied in 79.2 percent of cases, Guatemalans in 74.7 percent and Hondurans in 78.1 percent, according to data from Syracuse University’s Transactional Records Access Clearinghouse. At 88 percent, asylum applicants from Mexico had the highest denial rate for countries with a large number of asylum-seekers coming to the United States. Ethiopian, Chinese and Nepalese applicants, meanwhile, were denied asylum in just 25 percent or fewer cases in that time frame. Justin Estep, director of the Catholic Charities of Central Texas’ immigration legal services, said immigration judges generally have not accepted arguments that Central Americans who have been threatened by gangs, or adolescent boys whom gangs are trying to conscript, should be considered a “particular social group.” One reason, he said, is that immigration judges have used asylum primarily to protect immigrants from state violence or paramilitary groups but do not consider the far-reaching power of gangs in those countries. “The gangs have become the government authority, which might be the practical reality on the ground, but it’s not the reality legally,” Estep said. Some judges have granted asylum to Central Americans in some special cases using the “particular social group” clause, he said, such as woman-owned businesses targeted by gangs for extortion. Prosecutors get more aggressive As a signatory to the 1967 Protocol Relating to the Status of Refugees, the United States has agreed not to punish asylum-seekers for entering the country without authorization because people fleeing violence or state persecution are often unable to obtain entry visas. Federal prosecutors, however, regularly charge asylum-seekers in criminal court, forcing their proceedings in immigration courts to wait until after the defendants have served their federal prison sentences. Often, the defendants agree to be deported without following through on their asylum cases, Gilman said. In some recent cases, prosecutors require them to do so as part of a plea agreement, she said. The aggressive prosecutorial approach has increased under Sessions, who has sought to more rapidly prosecute and deport immigrants by expanding a pilot program called Operation Streamline that originated in the Del Rio federal court. Under the new approach, the administration prosecutes as many recent border-crossers as possible, rather than prioritizing those with previous criminal records and funneling the rest into the immigration enforcement system. In the proceedings, a dozen or more simultaneously plead guilty to misdemeanor illegal entry or felony illegal re-entry. They are sentenced individually based on their previous records. One effect of prosecuting as many cases as possible is that some families seeking asylum are split up as the adults are sent to criminal courts and federal lockups while the children are sent to immigrant detention or resettlement. “The criminal prosecutions are being used as a way to separate families,” Gilman said. “Dad is criminally prosecuted for unlawful entry. The children are sent off to essentially foster care. In those cases, basically everyone gives up their asylum claims so they can be united.”

#### Mass deportations are inhumane and a form of ethnic cleansing, fueling racism and genocide. Allen and Wilson 16

Allen, Danielle and Richard Ashby Wilson. "Mass Deportation Isn’t Just Impractical. It’S Very, Very Dangerous." Washington Post. N. p., Sept. 23, 2016. Web. 14 Apr. 2018. //nhs-VA

Trump’s [specific policy](http://www.nytimes.com/2016/09/02/us/politics/donald-trump-far-from-softening-lays-out-tough-immigration-plans.html?_r=0) involves adding 5,000 Border Patrol agents, tripling the number of Immigration and Customs Enforcement deportation agents, creating a special deportation force that he has described as a military unit and deporting not merely people who have been convicted of crimes but also immigrants on visa overstays and undocumented immigrants [who have been arrested](http://www.nytimes.com/2016/09/02/us/politics/transcript-trump-immigration-speech.html), even if not convicted. He has proposed expedited procedures that would, to ensure speed, presumably require setting aside the due process protections meant to safeguard rights and minimize error. One of the last times the world saw such a major effort at mass deportations in a developed country was in the 1990s in the former Yugoslavia. That experience is instructive. In 1989, after the fall of the Berlin Wall and four decades of peaceful ethnic and religious relations in Yugoslavia, post-communist politicians of all three communities in Bosnia and Herzegovina (Croat, Muslim and Serb) came to power on a surge of ethno-nationalist rhetoric. Starting in 1992, they promulgated official policies such as the “[Six Strategic Objectives for the Bosnian Serb People](http://www.icty.org/x/cases/stanisic_simatovic/trans/en/090610IT.htm)” that included the forcible removal of other groups from towns and villages, using new “crisis staffs” made up of police and civilian paramilitaries. The process spun out of control and, in many communities, neighbors turned against neighbors, driving them out of their homes and seizing their assets. It started with a small number of activists, fewer than a few thousand people who were extreme nationalists and members of fringe parties. But as the propaganda and fear spread, the wider citizenry participated in the campaign of persecution. With the cover of official policy, civilians took it upon themselves to hasten the expulsion of members of other ethnic or religious groups. The fratricidal conflict claimed 100,000 lives. The majority of fatalities were civilians murdered in the context of mass deportations. The Bosnian deportations grew into a systematic policy termed “ethnic cleansing.” The U.N. Security Council declared forcible removal based on ethnicity a crime against humanity in 1994. And eventually there was also accountability for political leaders who enacted deportation policies and incited their followers to hatred and violence. In March 2016, the International Criminal Tribunal for the Former Yugoslavia [found former Bosnian Serb president Radovan Karadzic guilty](https://www.washingtonpost.com/world/un-tribunal-finds-former-bosnia-serb-leader-guilty-of-genocide/2016/03/24/1a9f1066-f1c9-11e5-85a6-2132cf446d0a_story.html) of genocide, war crimes and crimes against humanity. The tribunal ruled that his speeches and official propaganda made a significant contribution to an overarching joint criminal enterprise to create an ethnically homogenous state of Bosnian Serbs. The United States, of course, has its own history of mass deportations. There is the 19th-century [Trail of Tears](http://www.cherokee.org/AboutTheNation/History/TrailofTears/ABriefHistoryoftheTrailofTears.aspx), when the U.S. government forcibly relocated members of Southeastern Native American tribes to land west of the Mississippi River. And in the 1930s and 1940s, under the pressure of the Great Depression, about 2 million [Mexicans and Mexican Americans were deported](http://www.npr.org/sections/codeswitch/2015/09/08/437579834/mass-deportation-may-sound-unlikely-but-its-happened-before); many lost their property. This was also the backdrop to the famous [Zoot Suit Riots](http://www.history.com/news/ask-history/what-were-the-zoot-suit-riots) in Los Angeles in 1943, when U.S. sailors and Marines attacked Latino youths. The violence spread to San Diego and Oakland, and developed into broader racial violence that summer in Chicago, Philadelphia, Detroit, New York and Evansville, Ind. In the 1950s, the deportation of millions was attempted again with Operation Wetback; again people lost their property. [Some died](https://www.washingtonpost.com/news/morning-mix/wp/2015/09/30/donald-trumps-humane-1950s-model-for-deportation-operation-wetback-was-anything-but/) in the desert heat of Mexicali. The notion that governments have learned how to conduct mass deportations in “[humane and efficient](http://www.nydailynews.com/news/politics/trump-hispanic-supporters-humane-efficient-article-1.2759435)” ways is ludicrous. The summary removal of millions of members of a minority ethnic or religious group from a territory has been accompanied, in nearly every historical instance, by assault, murder, crimes against humanity and, occasionally, genocide. It has involved armed roadblocks to check papers, the smashing down of doors in the night to drag people out of their homes. It has also involved unrestrained popular violence against a target population. We might like to think that we’re above all that sort of thing, that with the right kind of training a special deportation force and beefed-up ICE units would carry out an orderly removal. But we do have in our midst the elements that have historically made mass deportations so dangerous: heated rhetoric that slurs whole minority groups (“[they’re not sending their best . . . they’re rapists](https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/)”); an activist minority of white nationalists; an armed minority of militiamen; and the ongoing militarization of our police forces.

### Adv 2 – Reform

#### Prosecutors are increasingly powerful – this kills trust in the CJS.

EJI 15 – EQUAL JUSTICE INITIATIVE (“DELAWARE’S ACCESS TO JUSTICE COMMISSION’S COMMITTEE ON FAIRNESS IN THE CRIMINAL JUSTICE SYSTEM” November 2015 https://courts.delaware.gov/supreme/docs/Delaware-Charging-Plea-Bargaining-Sentencing-Report.pdf) SJDI

As plea bargaining becomes increasingly common, prosecutors are becoming increasingly powerful. Prosecutors have many more resources than most defendants and defense attorneys. For example, law enforcement officials investigate the government’s cases.74 This means that prosecutors have entire police departments at their disposal. Moreover, prosecutors can use plea deals to entice witnesses to either provide information or testify against defendants. Prosecutors can offer defendants an ultimatum: plead guilty to reduced charges or go to trial and face more severe charges with harsher, often mandatory, penalties. For example, if the police raid a drug dealer’s house and find his girlfriend inside of it with drugs in her purse, the prosecutor on the case might offer to charge her only for the drugs in her purse in exchange for her guilty plea, testimony against her boyfriend, and a couple of years in prison. If she rejects that offer, the prosecutor will charge her with constructive possession of all of the drugs in the house, which could result in a mandatory minimum sentence of around 25 years. In a white-collar crime case, a prosecutor might charge the defendant with one count of wire fraud for all of the emails she sent if she pleads guilty, or twelve counts of wire fraud for each email she sent if she goes to trial.76 The prosecutor, as opposed to the judge, often decides the sentence. The proliferation of duplicative laws gives prosecutors the power to charge a single incident under several different statutes, thereby increasing their bargaining power with a defendant. Prosecutors generally decide whether to charge a crime as a misdemeanor or felony and whether add enhancements, such as the use of a firearm in the commission of the offense, or prior convictions.77 “In the course of plea negotiations, a prosecutor can agree to drop each time-adding allegation or threaten to add more serious charges if the defendant refuses to ‘take the deal.’”78 The prosecutor’s influence over who goes to trial and who pleads guilty, and how much time they serve in prison, is troubling in light of the fact that prosecutors do not represent the country demographically. Although white men make up only 31% of the population of the United States, they comprise 79% of the nation’s prosecutors.79Ninety-five percent of all prosecutors are white.80 The fact that prosecutors are so overwhelmingly white is especially disconcerting in light of the fact that prison populations in Delaware and throughout the country are disproportionately black and Latino. This stark contrast between prosecutors and defendants also perpetuates the lack of trust that many people of color have in the criminal justice system. As Melba V. Pearson, president of the National Black Prosecutor’s Association said about African-Americans’ mistrust of the criminal justice system: “[t]hey have to see someone that looks like them. When you walk into the courtroom and no one looks like you, do you think you are going to get a fair shake?” 81

#### The plan sparks quick reforms at the local level, which spills up. Cade 13

Cade, Jason A. “THE PLEA-BARGAIN CRISIS FOR NONCITIZENS IN MISDEMEANOR COURT.” Cardozo Law Review, 2013, www.cardozolawreview.com/content/34-5/CADE.34.5.pdf. Assistant Professor, University of Georgia Law School. A.B., University of North Carolina at Chapel Hill. J.D., Brooklyn Law School. Jason A. Cade joined the University of Georgia School of Law faculty in 2013 and was promoted to associate professor in the fall of 2017. He teaches Immigration Law and directs the school’s Community Health Law Partnership (Community HeLP) Clinic. //nhs-VA

To be sure, reforms at the federal level could eliminate the root causes of much of the misdemeanor crisis for noncitizens. If Congress were to legislatively remove or reduce the immigration consequences of minor convictions—for example by explicitly defining aggravated felonies or crimes involving moral turpitude to exclude misdemeanors—the most disproportional outcomes could be avoided. Legislation along these lines would have two beneficial effects in misdemeanor court. First, if deportation is no longer a common result of petty offenses, less is at stake for noncitizens when the system gets it wrong.338 Second, legislatively defining removable offenses to exclude all or most misdemeanor convictions would allow noncitizens, especially lawful permanent residents, to exercise their right to fight minor criminal charges or to litigate unconstitutional arrests without risking a conviction that could result in mandatory detention and ultimately deportation.339 Congress could also restore opportunities for state or federal adjudicators to exercise post-conviction discretion to mitigate immigration consequences in appropriate cases. For example, as immigration law becomes increasingly intertwined with criminal justice systems it may make sense to give trial judges the authority to make recommendations against deportation, especially in plea-bargain cases where counsel is not appointed.340 The over-inclusive dragnet created by the convergence of immigration enforcement and criminal law also supports an expansion of immigration judge discretionary authority, to account for cases where the enforcement scheme results in manifest disproportionality.341 Additionally, Congress could clarify that all convictions pardoned or expunged by states are no longer deportable offenses, so that states could correct injustices in the most egregious cases and reward those who have clearly rehabilitated.342 While these reforms would not remove the risk that a noncitizen might face deportation based on a minor conviction for a crime she did not commit, they would at least allow more opportunities for the consideration of equitable or mitigating factors. Other meaningful possibilities for federal reform include amending the INA to provide that deportation consequences not be imposed on the basis of convictions where there was no right to counsel in the criminal proceeding. The INA could also be amended to allow defendants to enter state diversionary programs in minor cases without fear of deportation. While immigration law tends to be particularly entrenched and subject to political gridlock,343 significant federal legislative reform appears a more realistic possibility following the 2012 reelection of President Obama.344 Indeed, the growing state and local level reforms discussed below may coalesce as a catalyst for legislative amendments to the INA. On the other hand, federal immigration reforms that significantly benefit noncitizens with criminal history remain less likely.345 As of the time editing for this Article concluded, none of the legislative reforms I have suggested here appear to be under consideration by Congress. The executive branch could also take actions that would ameliorate some of the corrosive effects of the ICE jail immigration enforcement programs. While such voluntary restriction has seemed unlikely in view of the political economy of immigration enforcement against noncitizens encountering the criminal justice system, the Obama Administration has demonstrated more recently that it is sometimes willing to tolerate fewer apprehensions of deportable noncitizens where there are high collateral costs to justice. For instance, the federal government has terminated or modified immigration enforcement programs where the DOJ has found evidence of local discriminatory policing practices against immigrants.346 On December 21, 2012, John Morton issued a new memorandum purporting to bring the use of detainers in line with the priorities for immigration enforcement previously expressed in the DHS policy memoranda issued in 2010 and 2011.347 The 2012 memo asks ICE agents and officers (but not CBP agents) to refrain from issuing detainers in criminal cases in certain circumstances.348 It remains to be seen, of course, whether this policy will be ignored on the ground level, just as the prior top-down prosecutorial discretion memoranda largely have been.349 Even assuming good faith, the guidance offered in the new detainer directive is vague and offers enough loopholes that its practical effect is in some doubt. Nevertheless, if sufficient political pressure is exerted in light of the negative consequences of ICE programs for the integrity of criminal justice systems, DHS might determine that further, more specific modifications of the detainer programs are warranted. Perhaps as more jurisdictions enact policies that resist compliance with detainers,350 especially where issued against noncitizens not charged with serious offenses, the federal government will continue to revise its enforcement policies with an eye towards fostering cooperation rather than dissonance with local jurisdictions.

#### Legal empowerment is an effective vehicle for social change and addressing injustice—just the *perception* of justice through the law promotes political activism and spills down to strengthen grassroots movements

Maru 10 (Vivek, CEO at Namati: Innovations in Legal Empowerment, “Social accountability and legal empowerment,” Health and Human Rights, Vol. 12, No. 1 (June 2010), http://www.jstor.org/stable/healhumarigh.12.1.83, pp. 83-93)KC

Legal empowerment efforts seek to demonstrate, case by case, that even in environments accustomed to arbitrariness and unfairness, justice is possible. Injustice is interpreted to include intra-community disputes as well as problems and abuses that arise health and human rights in practice between citizens and traditional authorities, between citizens and state institutions, and between citizens and private firms. Legal empowerment organizations by no means win every battle they take on, and the remedies they do reach are incremental improvements on the status quo rather than pure moral victories. But above all else, an organization’s judgment of its own performance, and the trust it receives from communities, rests on its capacity to achieve concrete solutions to instances of injustice. Open-ended awareness raising, or advocacy for large-scale political change, say, are both important tools but not in themselves sufficient. It is the solving of people’s daily problems that defines the grassroots practice of legal empowerment: a mother receives support for her children from their hitherto derelict father; a community association succeeds in advocating with local government for repair of a dangerous broken bridge; a school is required to stop using its students for forced farm labor; a wrongfully detained juvenile is released; a group of farmers receives compensation from the mining company that damaged the farmers’ land. A combination of litigation and high-level advocacy with more flexible, grassroots tools A wide set of tools — including community education, organizing, local advocacy, and mediation — allows for constructive and cost-effective solutions, while the sparing, strategic use of litigation and highlevel advocacy backs frontline efforts with greater power of enforcement. The credible threat of litigation lends weight to the advocacy of frontline workers. This is the case even in a state like Sierra Leone, where the courts are significantly dysfunctional. A pragmatic, synthetic approach to plural legal systems A legal missionary outlook toward traditional institutions is not uncommon among human rights advocates: the aspiration to banish traditional darkness with modern legal light. This contempt of traditional institutions and norms makes as little sense as sanguine romanticization. In most cases I would argue for engaging and respecting both traditional and modern legal regimes, for building bridges between them, and for advocating for the positive evolution of each.

#### Motivates social change and judicial activism

Young 15 - Alston & Bird Professor, Duke Law School (Ernest A. Young\*, “Constitutionalism Outside the Courts” http://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=6116&context=faculty\_scholarship) SJDI

The results are striking—and quite sobering to notions of judicial supremacy. In the Southern states, “[f]or ten years, 1954-64, virtually nothing happened. Ten years after Brown only 1.2 percent of black schoolchildren in the South attended school with whites.”45 The situation radically changed, however, once Congress enacted the 1964 Civil Rights Act, which authorized the Attorney General to bring federal desegregation suits on behalf of individuals, and the 1965 Elementary and Secondary Education Act, which provided a huge pot of federal aid money to public school districts but made that money contingent on steps toward desegregation. By the 1972-73 school year, over 91 percent of black schoolchildren attended school with whites.46 Rosenberg concluded that “Brown and its progeny stand for the proposition that courts are impotent to produce significant social reform. One might offer a number of rejoinders to Professor Rosenberg’s account, the most persuasive being that judicial actions—particularly the Brown decision—play a catalytic role by inspiring social movements and spurring other governmental actors to action. Historian David Garrow has written, for example, of “the direct influence of Brown on the instigation of the 1955 Montgomery [bus] boycott. Almost every significant black Montgomery activist of that time has without prompting spoken of Brown's importance for the bus protesters.”48 Moreover, judicial decisions may play a more central role in particular settings— for example, in defending reformers from attacks and, more generally, in protecting the sorts of political freedoms that make reform possible.49 But in each of these scenarios, judges play a supporting role to non-judicial actors, particularly broad social movements, that pursue their constitutional vision primarily outside the courts. Vigorous debate persists concerning the extent to which judicial decisions matter out in the world, but no one believes anymore that constitutionalism inside the courts can go it alone.

### Plan

#### Resolved: In the United States criminal justice system, plea bargaining ought to be abolished for noncitizen federal defendants.

#### Here’s a solvency advocate – Elm et al 9/22

Elm, Donna Lee and Klein, Susan R. and Steglich, Elissa, Immigration Defense Waivers in Federal Criminal Plea Agreements (September 22, 2017). Mercer Law Review Forthcoming; U of Texas Law, Public Law Research Paper No. 679. Available at SSRN: https://ssrn.com/abstract=3046713 //nhs-VA

This article focuses on DOJ’s inclusion of waivers of immigration relief in plea agreements for noncitizen federal defendants, and proposes some challenges to these waivers. Federal district and appellate judges, immigration judges, and the Board of Immigration Appeals (“BIA”) members will find below legal grounds to decline to accept these waivers. Such tools are critical to combat this new federal immigration waiver propensity – which is especially disturbing in light of AG Sessions’ April 11, 2017 Memorandum requiring federal prosecutors to substantially broaden immigration prosecutions, and that limits discretion on whom not to deport. The government seeks waivers of critical rights without giving noncitizen defendants access to the tools and knowledge to make fully informed decisions. In Part I, we review the language of immigration waivers, widely varying by jurisdiction, and include an appended chart tracking waivers from each U.S. Attorney's Office that presently requests waivers as part of their standard plea agreements. In Part II, we briefly describe how removal orders are imposed by immigration judges (“IJs”), Department of Homeland Security (“DHS”) officers, and by federal district court judges, and describe the effect these waivers will have in those proceedings. We also include a discussion of the potential grounds of relief from removal such as asylum, withholding of removal, and protection under the Convention Against Torture in conjunction with challenging the grounds for the deportation. Finally, we spend some time on renewed use of a 1994 judicial removal statute, 18 U.S.C. § 1228. In Part III, we identify five methods for challenging these waivers. We first urge immigrants to demand hearings and to challenge the factual statements contained in the plea waivers. Next, we question the constitutionality of the judicial removal statute. Moving on, we suggest that defense attorneys who advise clients to sign these waivers may be providing ineffective assistance of counsel. Finally, we argue that public policy and international law obligations may prohibit enforcement of these waivers.

## 1AC – Structural Violence (Old)

### FW

#### The standard is mitigating structural violence.

#### Structural violence is based in moral exclusion, it pervades our cognitive processes and encourages us to ignore differences in identity.

Winter and Leighton 99 [Deborah DuNann Winter and Dana C. Leighton. Winter|[Psychologist that specializes in Social Psych, Counseling Psych, Historical and Contemporary Issues, Peace Psychology. Leighton: PhD graduate student in the Psychology Department at the University of Arkansas. Knowledgable in the fields of social psychology, peace psychology, and justice and intergroup responses to transgressions of justice] “Peace, conflict, and violence: Peace psychology in the 21st century.” Pg 4-5]

She argues that our normal perceptual cognitive processes divide people into in-groups and out-groups. Those outside our group lie outside our scope of justice. Injustice that would be instantaneously confronted if it occurred to someone we love or know is barely noticed if it occurs to strangers or those who are invisible or irrelevant. We do not seem to be able to open our minds and our hearts to everyone, so we draw conceptual lines between those who are in and out of our moral circle. Those who fall outside are morally excluded, and become either invisible, or demeaned in some way so that we do not have to acknowledge the injustice they suffer. Moral exclusion is a human failing, but Opotow argues convincingly that it is an outcome of everyday social cognition. To reduce its nefarious effects, we must be vigilant in noticing and listening to oppressed, invisible, outsiders. Inclusionary thinking can be fostered by relationships, communication, and appreciation of diversity. Like Opotow, all the authors in this section point out that structural violence is not inevitable if we become aware of its operation, and build systematic ways to mitigate its effects.Learning about structural violence may be discouraging, overwhelming, or maddening, but these papers encourage us to step beyond guilt and anger, and begin to think about how to reduce structural violence. All the authors in this section note that the same structures (such as global communication and normal social cognition) which feed structural violence, can also be used to empower citizens to reduce it. In the long run, reducing structural violence by reclaiming neighborhoods, demanding social justice and living wages, providing prenatal care, alleviating sexism, and celebrating local cultures, will be our most surefooted path to building lasting peace.

#### Global justice requires a reduction in inequality and a focus on material rights. Okereke 07

Okereke 07 [Chukwumerije Okereke (Senior Research Associate at the Tyndall Centre for Climate Change Research at the University of East Anglia). Global Justice and Neoliberal Environmental Governance. Routledge 2007] LADI

Notwithstanding these drawbacks, these scholars provide very compelling arguments against mainstream conceptions of justice. In this approach, the obli- gation of justice is derived from the moral equality of human beings irrespective of their race, creed and nationality (O'Neill 1991; Brown 1992: 169; Beitz 1979; Sen 1999). The emphasis is on the positive rights of citizens - that is the kinds of rights that require state authorities to do something in order to provide citizens with the opportunities and abilities to act to fulfil their own potential - as opposed to negative rights/liberty, which refers to freedom from coercion and non-interfer- ence. The notion of justice as meeting needs, as seen in Chapter 2, figures very prominently in quite a number of the influencing materials that form the starting point for the discourse on global sustainable development. It has been suggested, in general, that this idea of justice is 'increasingly influential on non-governmen- tal organizations and the community of international policy makers' (Brighouse 2004: 67). In general, proponents of justice as need criticize liberal ideas of justice for concentrating on political equality (equal right to speech, vote, etc.) without addressing the problem of material equality - especially in the form of equal access to resources. They also claim that the ability to own property as well as the ability to exercise political rights (say the right to vote) depends first and foremost on the ability of citizens to function effectively. When the basic human needs of citizens, for example food, are not being met, other rights become merely 'hypothetical and empty' (Sen 1999: 75). Following on from this basic reasoning, the rights approach to justice is rejected and, in its place, human basic need is seen as the correct basis of political morality and the right benchmark for the determination of political judgment (Plant 1991: 185). In previous sections we saw that libertarian notions of justice sanction unlimited material inequality between citizens, provided that each person has obtained their possessions through legitimate means. All that matters is that the state should ensure fair rules of transitions and equality before the law. We saw also that liberal accounts of justice, especially Rawls' liberal egalitarianism, reject this formula- tion of justice because it does not secure the welfare of the less able in society. On the contrary, Rawls recommends that political institutions should be structured in ways that protect the interests of the least advantaged individuals in society. Accordingly, he sanctions societal inequities provided that such inequities work to the advantage of the least well-off. On closer reading, however, it turns out that Rawls difference principle (that inequities should work in favour of the least well- off) does not contain any explicit demand relating to the basic needs of the poor. As such, it is possible for Rawls' proviso to be met even when the least well-off in the society are denied their basic needs. For example, a distribution that changes from 20:10:2 to 100:30:4 satisfies Rawls difference principle but tells us noth- ing about the actual well-being of the least well-off. So, whereas some (mainly libertarians) criticize Rawls for not specifying the extent to which other people's liberty can be sacrificed for the sake of the least well-off, others (proponents of justice as meeting need) criticize Rawls for leaving the fate of the least well-off unprotected. Many scholars in the latter group sometimes argue along Marxian lines that as long as the means of production remain in the hands of the 'haves' there is no guarantee that inequities will benefit the least well-off. Maslow (1968), Bradshaw (1972) and Forder (1974) have all consequently argued that only the theory of need provides, as Maslow (1968: 4) puts it, 'the ultimate appeal for the determination of the good, bad, right and wrong' in a po- litical community. Without the theory of need, they say, it would be impossible to justify the welfare state in capitalist Western democracies. On the other hand, the co-existence of welfare and capitalism confirms the place of need as the criterion of moral political judgment. O'Neill (1991), Sen (1999) and Nussbaum (2000) have all extended versions of this argument to the international domain. O'Neill (1980, 1991) argues that adherence to the Kantian categorical imperative entails that the global community must act to remove the aching poverty and famine that threaten the existence of millions of people in developing countries. Sen (1999), for his part, calls for the strengthening of international institutions to make them able to assist the least well in the global society to achieve the measure of actual living that is required for the basic function and well-being of citizens. For Sen, as for O'Neill, all forms of liberty and rights are meaningful only when people have the substantive 'freedom to achieve actual living' (Sen 1999: 73; cf. O'Neill 1989: 288; 1986). Thomas Pogge also places emphasis on human basic need and starts his well-known book World Poverty and Human Rights with the rhetorical ques- tion: 'How can severe poverty of half of humankind continue despite enormous economic and technological progress and despite the enlightened moral norms and values of our heavily dominant Western civilization?' (Pogge 2002: 3). Many environmentalists believe that this is the conception of justice most con- sistent with the Bnmdtland version of sustainable development (Dobson 1998; Benton 1999: 201; Langhelle 2000: 299). This assertion is not difficult to sustain because the Bnmdtland Report contains several explicit arguments that firmly link the concept of sustainability with meeting the needs of the global population. It says, for example: The satisfaction of human needs and aspirations is the major objective of sustainable development. The essential needs of vast numbers in the develop- ing countries - for food, clothing, shelter, jobs - are not being met, and be- yond their basic needs, these people have legitimate aspirations for improved quality of life .... Sustainable development requires meeting basic needs of all and extending to all the opportunity to satisfy their aspirations for a better life. (WCED 1987: 43).

### Adv 1 – Deportations

#### Under Sessions, prosecutors are pushing deportation through a plea deal to illegal immigrants. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

ATTORNEY GENERAL JEFF Sessions is pushing federal prosecutors to bypass immigration courts as part of the Trump administration’s hard-line strategy on deportation. Behind closed doors, prosecutors are pressing noncitizens to sign away their rights to make a case for remaining in the country. In the most dramatic cases, immigrants charged with crimes are signing plea agreements in which they promise they have “no present fear of torture” on returning to their home country. The pleas can block them from seeking asylum or protection from persecution. While plea agreements such as these are not entirely new — and are difficult to track — some defense attorneys who specialize in immigration fear they will become commonplace under Sessions. They’re also concerned prosecutors will push them for minor crimes that previously might not have led an immigration judge to order deportation. Immigration experts question the fairness of such provisions in plea agreements and even their overall constitutionality. Some say they might violate international treaties. Susan Church, an attorney who was one of the first to sue the government over President Donald Trump’s executive orders, said the leverage prosecutors hold at the plea-bargaining table heightens the risk of abuse. “Obviously I have seriously grave concerns about eliminating the small level of due process that’s afforded to immigrants in immigration court,” she said. “They absolutely should not be proposed as part of a plea agreement.” An examination of court records, memos from the Department of Justice, and other documents, as well as interviews with lawyers, suggest federal prosecutors are increasingly likely to demand plea bargains in which noncitizens sign away these due process rights. In one recent case in Massachusetts, the prosecutor said the provisions were “non-negotiable,” according to the defendant’s attorney. In a memo in April, Sessions directed all federal prosecutors to place higher priority on certain immigration offenses, including improper entry, illegal re-entry, and unlawful transportation of undocumented immigrants. He further instructed prosecutors, when possible, to seek “judicial orders of removal” that enable federal judges to order deportation without any hearing in immigration court. “I know many of you are already seeking these measures from District Courts,” Sessions wrote. “I ask that you continue this effort to achieve the results consistent with this guidance.” Three months later, in his regular bulletin to U.S. attorneys, Sessions invited attorneys from Immigration and Customs Enforcement to share tips on what they called a “game-changer”: Make deportation part of plea agreements offered to noncitizens charged with crimes. This “seldom used” strategy would “offer a powerful and efficient tool for prosecuting criminal aliens — one that provides enormous value to the Department of Homeland Security (DHS) and furthers new Department of Justice policy,” the how-to memo stated. It went on to list benefits, including using the waivers “as a bargaining chip to negotiate a plea with a defendant who is less interested in fighting removal than in litigating the prison sentence.” Michael Cohen, a former federal prosecutor who is now a criminal defense attorney in Florida and New York, said he had heard about the Justice Department’s new strategy but has yet to see it in action. He said he would be extremely hesitant to advise a client to sign such a waiver. However, Cohen said, an individual prosecutor might not have the same discretion in light of the administration’s directives. “You’re duty-bound to follow your office’s policies,” he said. “I understand that.” Devin O’Malley, a spokesperson for the Justice Department, said these types of plea agreements can “increase the efficiency of the immigration court system, save Americans’ tax dollars, and promote good government.” “This common-sense commitment to the rule of law will help reduce pressure on the immigration court pending caseload that has more than doubled since 2011,” O’Malley said in an email. While district offices declined to discuss plea waiver language, materials from a Senate Judiciary Committee hearing in 2008 pointed to how some prosecutors might be “hesitant to use it as a general practice.” The same report noted the rarity with which plea agreements had been used to order the deportation of immigrant defendants: 160 times between fiscal year 2002 and fiscal year 2008. In the same time period, ICE removed more than 1 million people, according to data analyzed by the Transactional Records Access Clearinghouse, run by Syracuse University. Donna Lee Elm, who is in charge of federal public defenders in the Middle District of Florida and an expert on plea bargain waivers, said the Justice Department’s new tactics are affecting many people who “actually should be entitled to be heard in immigration court.” “They’re using the hammer of threat of prosecution and a long prison sentence to give up the rights in an immigration case,” she said. Waiving a hearing in immigration court is not trivial. In the past five years, about 30 percent of noncitizens charged with crimes have succeeded in convincing an immigration judge to let them stay in the country, according to TRAC data. Elm said some of the plea agreements likely are violating decades-old international treaties, in which the federal government vowed to enable people to seek asylum in this country. “You can’t waive that — it’s not like waiving the right to trial,” she said. “They just didn’t think these through.”

#### Asylum seekers are offered deportation as a plea deal. Walsh 12/21

Walsh, Sean Collins. “Trump Immigration Crackdown Targets Central Americans Seeking Asylum.” Mystatesman, Austin American Statesman, 21 Dec. 2017, www.mystatesman.com/news/national-govt--politics/trump-immigration-crackdown-targets-central-americans-seeking-asylum/6vXXIaPccreYAYRS5tzWSN/. Sean Collins Walsh reports on state government and politics for the American-Statesman. //nhs-VA

In its crackdown on illegal immigration, President Donald Trump’s administration has made a series of policy changes that lawyers and advocates say are trampling the rights of a group of immigrants who did not cross the border illegally: asylum-seekers. The results so far this year have been dramatic: Immigration judges, who are employed by the Justice Department and not the judicial branch like other federal judges, rejected 61.8 percent of asylum cases decided in 2017, the highest denial rate since 2005. Under U.S. law and international treaty obligations, people who fear persecution or violence in their home countries have a right to seek asylum protection, which is similar to refugee status, regardless of how they entered the country. Trump and Attorney General Jeff Sessions, however, have sought to deter newly arrived foreigners from seeking refuge in the United States in part by using criminal laws to punish people who advocates say should not be treated as criminals. “They’re just not letting them in the legal process to seek asylum,” said Olga Byrne, a senior associate at Human Rights First, which has documented cases of asylum-seekers being wrongfully turned away. “They’re just funneled into the criminal justice system, charged with illegal entry and offered a plea bargain.” Although most asylum-seekers crossing the U.S. southern border hail from Honduras, El Salvador and Guatemala — which have the first-, fourth- and fifth-highest murder rates in the world, according to the United Nations — the administration views the recent wave of Central Americans looking for protection not as a humanitarian crisis but as people trying to game the U.S. immigration system. “Unfortunately, this system is currently subject to rampant abuse and fraud,” Sessions said in an October speech. “And as this system becomes overloaded with fake claims, it cannot deal effectively with just claims. The surge in trials, hearings, appeals, bond proceedings has been overwhelming.” To stem the tide, the administration has significantly restricted the asylum system: • Through an executive order, Trump made it more difficult for immigrants to succeed in what are known as “credible fear interviews,” the first step in the process, by instructing asylum officers to be more critical of immigrants’ claims that they have a legitimate fear of violence or persecution if they return to their home countries. • Customs and Border Protection officials are misinforming immigrants who arrive at border entry points about what U.S. law offers asylum-seekers and are turning them away without allowing them to make their cases, according to a lawsuit filed in a California federal court. • On Sessions’ orders, federal prosecutors are speedily trying more border-crossers on illegal immigration charges in criminal courts, leading many who are seeking asylum to be deported without their asylum cases reaching immigration courts. Some prosecutors are pushing plea deals that force defendants to drop their asylum claims. • The federal government is increasing the number of asylum-seekers who are being held in detention during the years-long wait for their cases to be heard in immigration court, a practice that a New York federal court recently ruled violates their rights by denying them bail. The question of how to handle asylum-seekers reflects a problematic dynamic for the Trump administration as it uses old tools to confront a new reality at the border. Asylum requests skyrocket More than half of the 311,000 immigrants apprehended at the border last year were from Central America — just the second time Mexicans were not the majority. The first was in 2014. Asylum applications, meanwhile, have skyrocketed, from 57,000 in 2014 to more than 116,000 in 2016, according to U.S. Citizenship and Immigration Services data. The immigration laws at the disposal of federal prosecutors were crafted primarily to address unauthorized immigrants from Mexico, who generally try to avoid authorities and rarely pursue asylum. Since 2014, however, the driving force behind unauthorized border crossings is Central Americans who readily turn themselves in to authorities to seek asylum from gang violence back home. Many arrive as families or unaccompanied children. Denise Gilman, who runs the University of Texas Law School’s immigration clinic, said it’s no accident that the federal government is funneling asylum-seekers into criminal courts despite this new reality. “The more they can make asylum-seekers look and feel like criminals to the public, the easier it is for them to justify detention and rapid deportation,” Gilman said. “It’s intentional.” The White House did not respond to a request for comment. Proponents of strict immigration enforcement argue that the asylum process is ripe for fraud and could be used by terrorists to enter the country because it is difficult for asylum officers and immigration judges to verify or disprove applicants’ claims. “Given its susceptibility to fraud, the credible fear process is particularly vulnerable to exploitation by individuals or groups seeking to do harm to the United States, by traffickers seeking to bring victims to the United States, and by economic migrants seeking employment opportunities,” Andrew Arthur, a resident fellow at the Center for Immigration Studies, which advocates for less immigration, wrote in an April article. Fear of violence discounted To win asylum, immigrants must prove that, if returned to their home countries, they would be targeted or persecuted on the basis of “race, religion, nationality, membership in a particular social group, or political opinion,” according to U.S. law. While many Central Americans in El Salvador, Guatemala and Honduras face violence at home, they have had little success convincing U.S. immigration judges that they should be considered members of one of those protected groups. From 2012 to 2017, Salvadorans were denied in 79.2 percent of cases, Guatemalans in 74.7 percent and Hondurans in 78.1 percent, according to data from Syracuse University’s Transactional Records Access Clearinghouse. At 88 percent, asylum applicants from Mexico had the highest denial rate for countries with a large number of asylum-seekers coming to the United States. Ethiopian, Chinese and Nepalese applicants, meanwhile, were denied asylum in just 25 percent or fewer cases in that time frame. Justin Estep, director of the Catholic Charities of Central Texas’ immigration legal services, said immigration judges generally have not accepted arguments that Central Americans who have been threatened by gangs, or adolescent boys whom gangs are trying to conscript, should be considered a “particular social group.” One reason, he said, is that immigration judges have used asylum primarily to protect immigrants from state violence or paramilitary groups but do not consider the far-reaching power of gangs in those countries. “The gangs have become the government authority, which might be the practical reality on the ground, but it’s not the reality legally,” Estep said. Some judges have granted asylum to Central Americans in some special cases using the “particular social group” clause, he said, such as woman-owned businesses targeted by gangs for extortion. Prosecutors get more aggressive As a signatory to the 1967 Protocol Relating to the Status of Refugees, the United States has agreed not to punish asylum-seekers for entering the country without authorization because people fleeing violence or state persecution are often unable to obtain entry visas. Federal prosecutors, however, regularly charge asylum-seekers in criminal court, forcing their proceedings in immigration courts to wait until after the defendants have served their federal prison sentences. Often, the defendants agree to be deported without following through on their asylum cases, Gilman said. In some recent cases, prosecutors require them to do so as part of a plea agreement, she said. The aggressive prosecutorial approach has increased under Sessions, who has sought to more rapidly prosecute and deport immigrants by expanding a pilot program called Operation Streamline that originated in the Del Rio federal court. Under the new approach, the administration prosecutes as many recent border-crossers as possible, rather than prioritizing those with previous criminal records and funneling the rest into the immigration enforcement system. In the proceedings, a dozen or more simultaneously plead guilty to misdemeanor illegal entry or felony illegal re-entry. They are sentenced individually based on their previous records. One effect of prosecuting as many cases as possible is that some families seeking asylum are split up as the adults are sent to criminal courts and federal lockups while the children are sent to immigrant detention or resettlement. “The criminal prosecutions are being used as a way to separate families,” Gilman said. “Dad is criminally prosecuted for unlawful entry. The children are sent off to essentially foster care. In those cases, basically everyone gives up their asylum claims so they can be united.”

#### Deportation is a crime against humanity – the suffering incurred outweighs a minimal risk of extinction. Khan 4/11

Khan, Liaquat Ali. “Deportation as a Crime against Humanity.” The Huffington Post, TheHuffingtonPost.com, 11 Apr. 2017, 8:53 AM ET, www.huffingtonpost.com/entry/deportation-as-a-crime-against-humanity\_us\_58e10835e4b0ca889ba1a701. He obtained a law degree from Punjab University, Lahore. In 1976, Khan immigrated to the United States and studied law at New York University School of Law where he received his LL.M. and J.S.D. Khan is a member of the New York Bar and Kansas Bar. Since 1983, Khan has been teaching law at Washburn University School of Law in Topeka, Kansas. In 2014, Khan founded Legal Scholar Academy to provide impact analysis of U.S. foreign policy. Khan has participated in Islamic law symposia held at the law schools of Samford University, the University of St. Thomas, Barry University, Michigan State University, and Brigham Young University—contributing ground-breaking articles on Islamic jurisprudence. //nhs-VA

This commentary focuses on the potential deportation of eleven (11) million undocumented immigrants, including six (6) million of Mexican national origin, the largest group of undocumented immigrants living in the United States. These immigrants live in mortal fear of the Immigration and Customs Enforcement (ICE) agents picking them up from work, school, home, hand-cuffing them, putting them in buses and planes, and discarding them out of a country they have made home for years, if not decades. A Mexican man leaped off a bridge and killed himself after being deported. This cruel expulsion is justified under the popular label of “illegal aliens” and under the rhetoric of removing rapists and criminals. **Law against Deportation** International law in the form of human rights, international criminal law, the humanitarian law of war, regional compacts including the Charter on the Organization of American States, treaty provisions of state constitutions, and universal norms identified in scholarly treatises, all endorse, directly or indirectly, a simple principle that deportation is a crime against humanity. The Nuremberg tribunals stated in unambiguous terms that enslavement or deportation of a population is a crime against customary international law. See Robert Jackson, The Nuremberg Case xiv-xv (1971). Further, Nuremberg Principle IV(b) provides that the “deportation to slave labor ... of civilian populations of or in occupied territory” constitutes both a “war crime” and a “crime against humanity.” Building on the Nuremberg principles, more recent international treaties and scholarly treatises reaffirm that deportation is a crime against humanity, even if committed in peace times, and even if the deported population is not shipped to slave labor. In addition to apartheid, disappearances, torture, and enslavement, Article 7 of the Rome Statute of the International Criminal Court lists deportation or forcible transfer of population as crime against humanity. Article 4 of the 4th Protocol to the European Convention on Human rights states: “Collective expulsion of aliens is prohibited.” In the United States, courts have reaffirmed the principle that deportation of civilian populations to slave labor is a crime. See Iwanowa v. Ford Motor Co., 67 F.Supp.2d 424, 444-45 (D.N.J.1999). Time is ripe for the US courts to reconsider the deportation of settled communities. This commentary offers the concept of adverse citizenship derived from the prohibition against deportation as a crime against humanity. **Discussion** Several arguments may be offered to challenge the thesis that US deportation of undocumented immigrants is a crime against humanity. First, it might be argued that forced expulsion of only citizens/legal residents could be a crime against humanity and, therefore, the prohibition does not cover undocumented immigrants. Second, the United States is not a signatory to the Rome Statute or a party to the European Convention on Human Rights and the Protocols. Third, no US court has ruled that deportation of undocumented immigrants is contrary to the US Constitution, much less a crime against humanity. In fact, federal immigration laws allow deportation of undocumented immigrants, and removal of some illegal aliens under expedited procedures. To cap these arguments, one might point out that if deportation of undocumented immigrants were to be a crime against humanity, nations will surrender their sovereignty to alien invaders. These arguments have some merit under the US notion of sovereignty, as the distinction between legal and undocumented immigrants lays at the heart of US immigration law. But see, The Extinction of Nation-States. Yet, in the case of settled communities, the legal/illegal distinction is elusive, if not abusive of fundamental rights and liberties. With respect to undocumented communities, the US enforces its deportation laws in an arbitrary, cruel and unusual manner, in fits and starts, using the threat and actual removal as an instrument of mental torture, which itself is a crime against humanity. The so-called undocumented immigrants in the United States are living in plain view of the federal government and enforcement agencies, including the Department of Homeland Security, Department of Justice, Congress, and the White House. They are not hiding in caves or mountains. They live and work in big cities and farming towns, in almost all states. Many speak their own native languages, and some undocumented immigrants speak not a word of English because they live in places that once belonged to Mexico and later conquered by the United States through wars. It is no secret that millions of undocumented immigrants have been residing in the United States for decades, giving birth to at least one, if not two, generation of US citizens.

#### Mass deportations are inhumane and a form of ethnic cleansing, fueling racism and genocide. Allen and Wilson 16

Allen, Danielle and Richard Ashby Wilson. "Mass Deportation Isn’t Just Impractical. It’S Very, Very Dangerous." Washington Post. N. p., Sept. 23, 2016. Web. 14 Apr. 2018. //nhs-VA

Trump’s [specific policy](http://www.nytimes.com/2016/09/02/us/politics/donald-trump-far-from-softening-lays-out-tough-immigration-plans.html?_r=0) involves adding 5,000 Border Patrol agents, tripling the number of Immigration and Customs Enforcement deportation agents, creating a special deportation force that he has described as a military unit and deporting not merely people who have been convicted of crimes but also immigrants on visa overstays and undocumented immigrants [who have been arrested](http://www.nytimes.com/2016/09/02/us/politics/transcript-trump-immigration-speech.html), even if not convicted. He has proposed expedited procedures that would, to ensure speed, presumably require setting aside the due process protections meant to safeguard rights and minimize error. One of the last times the world saw such a major effort at mass deportations in a developed country was in the 1990s in the former Yugoslavia. That experience is instructive. In 1989, after the fall of the Berlin Wall and four decades of peaceful ethnic and religious relations in Yugoslavia, post-communist politicians of all three communities in Bosnia and Herzegovina (Croat, Muslim and Serb) came to power on a surge of ethno-nationalist rhetoric. Starting in 1992, they promulgated official policies such as the “[Six Strategic Objectives for the Bosnian Serb People](http://www.icty.org/x/cases/stanisic_simatovic/trans/en/090610IT.htm)” that included the forcible removal of other groups from towns and villages, using new “crisis staffs” made up of police and civilian paramilitaries. The process spun out of control and, in many communities, neighbors turned against neighbors, driving them out of their homes and seizing their assets. It started with a small number of activists, fewer than a few thousand people who were extreme nationalists and members of fringe parties. But as the propaganda and fear spread, the wider citizenry participated in the campaign of persecution. With the cover of official policy, civilians took it upon themselves to hasten the expulsion of members of other ethnic or religious groups. The fratricidal conflict claimed 100,000 lives. The majority of fatalities were civilians murdered in the context of mass deportations. The Bosnian deportations grew into a systematic policy termed “ethnic cleansing.” The U.N. Security Council declared forcible removal based on ethnicity a crime against humanity in 1994. And eventually there was also accountability for political leaders who enacted deportation policies and incited their followers to hatred and violence. In March 2016, the International Criminal Tribunal for the Former Yugoslavia [found former Bosnian Serb president Radovan Karadzic guilty](https://www.washingtonpost.com/world/un-tribunal-finds-former-bosnia-serb-leader-guilty-of-genocide/2016/03/24/1a9f1066-f1c9-11e5-85a6-2132cf446d0a_story.html) of genocide, war crimes and crimes against humanity. The tribunal ruled that his speeches and official propaganda made a significant contribution to an overarching joint criminal enterprise to create an ethnically homogenous state of Bosnian Serbs. The United States, of course, has its own history of mass deportations. There is the 19th-century [Trail of Tears](http://www.cherokee.org/AboutTheNation/History/TrailofTears/ABriefHistoryoftheTrailofTears.aspx), when the U.S. government forcibly relocated members of Southeastern Native American tribes to land west of the Mississippi River. And in the 1930s and 1940s, under the pressure of the Great Depression, about 2 million [Mexicans and Mexican Americans were deported](http://www.npr.org/sections/codeswitch/2015/09/08/437579834/mass-deportation-may-sound-unlikely-but-its-happened-before); many lost their property. This was also the backdrop to the famous [Zoot Suit Riots](http://www.history.com/news/ask-history/what-were-the-zoot-suit-riots) in Los Angeles in 1943, when U.S. sailors and Marines attacked Latino youths. The violence spread to San Diego and Oakland, and developed into broader racial violence that summer in Chicago, Philadelphia, Detroit, New York and Evansville, Ind. In the 1950s, the deportation of millions was attempted again with Operation Wetback; again people lost their property. [Some died](https://www.washingtonpost.com/news/morning-mix/wp/2015/09/30/donald-trumps-humane-1950s-model-for-deportation-operation-wetback-was-anything-but/) in the desert heat of Mexicali. The notion that governments have learned how to conduct mass deportations in “[humane and efficient](http://www.nydailynews.com/news/politics/trump-hispanic-supporters-humane-efficient-article-1.2759435)” ways is ludicrous. The summary removal of millions of members of a minority ethnic or religious group from a territory has been accompanied, in nearly every historical instance, by assault, murder, crimes against humanity and, occasionally, genocide. It has involved armed roadblocks to check papers, the smashing down of doors in the night to drag people out of their homes. It has also involved unrestrained popular violence against a target population. We might like to think that we’re above all that sort of thing, that with the right kind of training a special deportation force and beefed-up ICE units would carry out an orderly removal. But we do have in our midst the elements that have historically made mass deportations so dangerous: heated rhetoric that slurs whole minority groups (“[they’re not sending their best . . . they’re rapists](https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/)”); an activist minority of white nationalists; an armed minority of militiamen; and the ongoing militarization of our police forces.

### Adv 2 – Reform

#### Prosecutors are increasingly powerful – this kills trust in the CJS.

EJI 15 – EQUAL JUSTICE INITIATIVE (“DELAWARE’S ACCESS TO JUSTICE COMMISSION’S COMMITTEE ON FAIRNESS IN THE CRIMINAL JUSTICE SYSTEM” November 2015 https://courts.delaware.gov/supreme/docs/Delaware-Charging-Plea-Bargaining-Sentencing-Report.pdf) SJDI

As plea bargaining becomes increasingly common, prosecutors are becoming increasingly powerful. Prosecutors have many more resources than most defendants and defense attorneys. For example, law enforcement officials investigate the government’s cases.74 This means that prosecutors have entire police departments at their disposal. Moreover, prosecutors can use plea deals to entice witnesses to either provide information or testify against defendants. Prosecutors can offer defendants an ultimatum: plead guilty to reduced charges or go to trial and face more severe charges with harsher, often mandatory, penalties. For example, if the police raid a drug dealer’s house and find his girlfriend inside of it with drugs in her purse, the prosecutor on the case might offer to charge her only for the drugs in her purse in exchange for her guilty plea, testimony against her boyfriend, and a couple of years in prison. If she rejects that offer, the prosecutor will charge her with constructive possession of all of the drugs in the house, which could result in a mandatory minimum sentence of around 25 years. In a white-collar crime case, a prosecutor might charge the defendant with one count of wire fraud for all of the emails she sent if she pleads guilty, or twelve counts of wire fraud for each email she sent if she goes to trial.76 The prosecutor, as opposed to the judge, often decides the sentence. The proliferation of duplicative laws gives prosecutors the power to charge a single incident under several different statutes, thereby increasing their bargaining power with a defendant. Prosecutors generally decide whether to charge a crime as a misdemeanor or felony and whether add enhancements, such as the use of a firearm in the commission of the offense, or prior convictions.77 “In the course of plea negotiations, a prosecutor can agree to drop each time-adding allegation or threaten to add more serious charges if the defendant refuses to ‘take the deal.’”78 The prosecutor’s influence over who goes to trial and who pleads guilty, and how much time they serve in prison, is troubling in light of the fact that prosecutors do not represent the country demographically. Although white men make up only 31% of the population of the United States, they comprise 79% of the nation’s prosecutors.79Ninety-five percent of all prosecutors are white.80 The fact that prosecutors are so overwhelmingly white is especially disconcerting in light of the fact that prison populations in Delaware and throughout the country are disproportionately black and Latino. This stark contrast between prosecutors and defendants also perpetuates the lack of trust that many people of color have in the criminal justice system. As Melba V. Pearson, president of the National Black Prosecutor’s Association said about African-Americans’ mistrust of the criminal justice system: “[t]hey have to see someone that looks like them. When you walk into the courtroom and no one looks like you, do you think you are going to get a fair shake?” 81

#### The plan sparks quick reforms at the local level, which spills up. Cade 13

Cade, Jason A. “THE PLEA-BARGAIN CRISIS FOR NONCITIZENS IN MISDEMEANOR COURT.” Cardozo Law Review, 2013, www.cardozolawreview.com/content/34-5/CADE.34.5.pdf. Assistant Professor, University of Georgia Law School. A.B., University of North Carolina at Chapel Hill. J.D., Brooklyn Law School. Jason A. Cade joined the University of Georgia School of Law faculty in 2013 and was promoted to associate professor in the fall of 2017. He teaches Immigration Law and directs the school’s Community Health Law Partnership (Community HeLP) Clinic. //nhs-VA

To be sure, reforms at the federal level could eliminate the root causes of much of the misdemeanor crisis for noncitizens. If Congress were to legislatively remove or reduce the immigration consequences of minor convictions—for example by explicitly defining aggravated felonies or crimes involving moral turpitude to exclude misdemeanors—the most disproportional outcomes could be avoided. Legislation along these lines would have two beneficial effects in misdemeanor court. First, if deportation is no longer a common result of petty offenses, less is at stake for noncitizens when the system gets it wrong.338 Second, legislatively defining removable offenses to exclude all or most misdemeanor convictions would allow noncitizens, especially lawful permanent residents, to exercise their right to fight minor criminal charges or to litigate unconstitutional arrests without risking a conviction that could result in mandatory detention and ultimately deportation.339 Congress could also restore opportunities for state or federal adjudicators to exercise post-conviction discretion to mitigate immigration consequences in appropriate cases. For example, as immigration law becomes increasingly intertwined with criminal justice systems it may make sense to give trial judges the authority to make recommendations against deportation, especially in plea-bargain cases where counsel is not appointed.340 The over-inclusive dragnet created by the convergence of immigration enforcement and criminal law also supports an expansion of immigration judge discretionary authority, to account for cases where the enforcement scheme results in manifest disproportionality.341 Additionally, Congress could clarify that all convictions pardoned or expunged by states are no longer deportable offenses, so that states could correct injustices in the most egregious cases and reward those who have clearly rehabilitated.342 While these reforms would not remove the risk that a noncitizen might face deportation based on a minor conviction for a crime she did not commit, they would at least allow more opportunities for the consideration of equitable or mitigating factors. Other meaningful possibilities for federal reform include amending the INA to provide that deportation consequences not be imposed on the basis of convictions where there was no right to counsel in the criminal proceeding. The INA could also be amended to allow defendants to enter state diversionary programs in minor cases without fear of deportation. While immigration law tends to be particularly entrenched and subject to political gridlock,343 significant federal legislative reform appears a more realistic possibility following the 2012 reelection of President Obama.344 Indeed, the growing state and local level reforms discussed below may coalesce as a catalyst for legislative amendments to the INA. On the other hand, federal immigration reforms that significantly benefit noncitizens with criminal history remain less likely.345 As of the time editing for this Article concluded, none of the legislative reforms I have suggested here appear to be under consideration by Congress. The executive branch could also take actions that would ameliorate some of the corrosive effects of the ICE jail immigration enforcement programs. While such voluntary restriction has seemed unlikely in view of the political economy of immigration enforcement against noncitizens encountering the criminal justice system, the Obama Administration has demonstrated more recently that it is sometimes willing to tolerate fewer apprehensions of deportable noncitizens where there are high collateral costs to justice. For instance, the federal government has terminated or modified immigration enforcement programs where the DOJ has found evidence of local discriminatory policing practices against immigrants.346 On December 21, 2012, John Morton issued a new memorandum purporting to bring the use of detainers in line with the priorities for immigration enforcement previously expressed in the DHS policy memoranda issued in 2010 and 2011.347 The 2012 memo asks ICE agents and officers (but not CBP agents) to refrain from issuing detainers in criminal cases in certain circumstances.348 It remains to be seen, of course, whether this policy will be ignored on the ground level, just as the prior top-down prosecutorial discretion memoranda largely have been.349 Even assuming good faith, the guidance offered in the new detainer directive is vague and offers enough loopholes that its practical effect is in some doubt. Nevertheless, if sufficient political pressure is exerted in light of the negative consequences of ICE programs for the integrity of criminal justice systems, DHS might determine that further, more specific modifications of the detainer programs are warranted. Perhaps as more jurisdictions enact policies that resist compliance with detainers,350 especially where issued against noncitizens not charged with serious offenses, the federal government will continue to revise its enforcement policies with an eye towards fostering cooperation rather than dissonance with local jurisdictions.

#### Legal empowerment is an effective vehicle for social change and addressing injustice—just the *perception* of justice through the law promotes political activism and spills down to strengthen grassroots movements

Maru 10 (Vivek, CEO at Namati: Innovations in Legal Empowerment, “Social accountability and legal empowerment,” Health and Human Rights, Vol. 12, No. 1 (June 2010), http://www.jstor.org/stable/healhumarigh.12.1.83, pp. 83-93)KC

Legal empowerment efforts seek to demonstrate, case by case, that even in environments accustomed to arbitrariness and unfairness, justice is possible. Injustice is interpreted to include intra-community disputes as well as problems and abuses that arise health and human rights in practice between citizens and traditional authorities, between citizens and state institutions, and between citizens and private firms. Legal empowerment organizations by no means win every battle they take on, and the remedies they do reach are incremental improvements on the status quo rather than pure moral victories. But above all else, an organization’s judgment of its own performance, and the trust it receives from communities, rests on its capacity to achieve concrete solutions to instances of injustice. Open-ended awareness raising, or advocacy for large-scale political change, say, are both important tools but not in themselves sufficient. It is the solving of people’s daily problems that defines the grassroots practice of legal empowerment: a mother receives support for her children from their hitherto derelict father; a community association succeeds in advocating with local government for repair of a dangerous broken bridge; a school is required to stop using its students for forced farm labor; a wrongfully detained juvenile is released; a group of farmers receives compensation from the mining company that damaged the farmers’ land. A combination of litigation and high-level advocacy with more flexible, grassroots tools A wide set of tools — including community education, organizing, local advocacy, and mediation — allows for constructive and cost-effective solutions, while the sparing, strategic use of litigation and highlevel advocacy backs frontline efforts with greater power of enforcement. The credible threat of litigation lends weight to the advocacy of frontline workers. This is the case even in a state like Sierra Leone, where the courts are significantly dysfunctional. A pragmatic, synthetic approach to plural legal systems A legal missionary outlook toward traditional institutions is not uncommon among human rights advocates: the aspiration to banish traditional darkness with modern legal light. This contempt of traditional institutions and norms makes as little sense as sanguine romanticization. In most cases I would argue for engaging and respecting both traditional and modern legal regimes, for building bridges between them, and for advocating for the positive evolution of each.

#### **This protects Trump’s policies from targeting other marginalized peoples—spills over.**

Gonzalez-Rojas 17 (Jessica, Executive Director at the National Latina Institute for Reproductive Health, April 24, 2017 9:55 am, “Trump’s First 100 Days: A Blueprint To Hurt People of Color, Rewire, https://rewire.news/article/2017/04/24/trumps-first-100-days-blueprint-hurt-people-color/) KVA

Every day, as I work alongside community leaders to secure health and justice for Latinas, I am stunned by th is White House’s ever-growing hostility toward communities of color. The Trump administration sees the country’s changing demographics—the rising number of nonwhite and foreign-born people—as the chief internal threat. In this administration’s first 100 days, the document that most reflects that prejudice is its budget blueprint. It outlines President Trump’s spending priorities and program cuts that make clear his utter contempt for communities of color, and it edges this country and its moral compass closer to the nativist vision espoused by the likes of White House advisers Steve Bannon and Stephen Miller, and Attorney General Jeff Sessions. People of color would be disproportionately affected by Trump’s proposed elimination of critical programs that help pregnant women, children, and the poor. They would be hurt by disastrous cuts to economic programs that help workers and families. Latinas face the largest wage disparities among all racial and ethnic groups, with a recent study showing that Latinas must work 22 months to make what white men earn in 12 months. And because women of color and immigrant women disproportionately work in physically demanding and low-wage jobs that offer little flexibility, they are most affected by regressive wage legislation. The racist subtext of Trump’s budget is seen in his spending priorities: a $2 billion down payment to begin construction of a wall on the U.S.-Mexico border and funding for 100 new government lawyers to handle the expedited removal of undocumented immigrants, 500 new Border Patrol agents and 1,000 new Immigration and Customs Enforcement personnel. The price tag to pay for the building of detention facilities designed to hold undocumented immigrants and fund their removal is a whopping $1.5 billion. These proposals align with such Trump strategies as publishing crimes committed by undocumented immigrants, though these reports were recently suspended after protests by civil rights advocates. The racial implications of such strategies are clear, as most crimes are not committed by immigrants. The budget is just another prong in a racist agenda that posits nonwhite people as a drain on public resources and a threat to the national racial order. None of this is a surprise; Trump’s racism has been well-documented. On the first day of his campaign, Trump said of Mexican immigrants, “They’re bringing drugs. They’re bringing crime. They’re rapists.” Upon taking office, he issued multiple executive orders regarding immigration, threatened to defund so-called “sanctuary cities,” and called for the creation of detention centers to hold Central American refugees—mostly women, children, and LGBTQ people seeking to escape violence in their homelands. Trump’s budget amounts to an obscene redistribution of money and resources from the working poor—of whom a disproportionate amount are people of color, including immigrants—to the wealthiest. In order to fund the criminalization and persecution of immigrants, Trump proposes stripping those very communities of the support they rely on to thrive. As we approach the end of Trump’s first 100 days in office on April 30, I ask that we center around the perspectives and needs of the courageous women I encounter in my work every day. They toil and struggle against sizable odds to provide for their families in low wage, demanding jobs that pay them little; they jump through hurdles to find child care, obtain routine health services, and ensure their family’s safety. They are the backbone of their families and community, and they want to contribute to a better and more just society. In this era of Trump, these women are fighting the threat of having their families torn apart through needless deportations and are working through the pain of having to explain to their children their family’s plan in case they are separated. These courageous women are speaking truth to power, even in the face of sexism, racism, and xenophobia. Reproductive justice cannot be attained without racial equality, without quality affordable health care, without humane and just immigration reform, and without LGBTQ liberation. The Trump agenda requires us to focus on the role race and immigration status play in injustice, even legalized injustice. We owe it to our communities to help lead the way in calling out this administration’s actions for what they are: part of a racist agenda that seeks to exclude communities of color while using immigrants as scapegoats to score political points with the vocal minority of nativists in our country. Trump’s proposed budget is an attack on all of us, and we will not sit idly by.

### Plan

#### Resolved: In the United States criminal justice system, plea bargaining ought to be abolished for noncitizen federal defendants.

#### Here’s a solvency advocate – Elm et al 9/22

Elm, Donna Lee and Klein, Susan R. and Steglich, Elissa, Immigration Defense Waivers in Federal Criminal Plea Agreements (September 22, 2017). Mercer Law Review Forthcoming; U of Texas Law, Public Law Research Paper No. 679. Available at SSRN: https://ssrn.com/abstract=3046713 //nhs-VA

This article focuses on DOJ’s inclusion of waivers of immigration relief in plea agreements for noncitizen federal defendants, and proposes some challenges to these waivers. Federal district and appellate judges, immigration judges, and the Board of Immigration Appeals (“BIA”) members will find below legal grounds to decline to accept these waivers. Such tools are critical to combat this new federal immigration waiver propensity – which is especially disturbing in light of AG Sessions’ April 11, 2017 Memorandum requiring federal prosecutors to substantially broaden immigration prosecutions, and that limits discretion on whom not to deport. The government seeks waivers of critical rights without giving noncitizen defendants access to the tools and knowledge to make fully informed decisions. In Part I, we review the language of immigration waivers, widely varying by jurisdiction, and include an appended chart tracking waivers from each U.S. Attorney's Office that presently requests waivers as part of their standard plea agreements. In Part II, we briefly describe how removal orders are imposed by immigration judges (“IJs”), Department of Homeland Security (“DHS”) officers, and by federal district court judges, and describe the effect these waivers will have in those proceedings. We also include a discussion of the potential grounds of relief from removal such as asylum, withholding of removal, and protection under the Convention Against Torture in conjunction with challenging the grounds for the deportation. Finally, we spend some time on renewed use of a 1994 judicial removal statute, 18 U.S.C. § 1228. In Part III, we identify five methods for challenging these waivers. We first urge immigrants to demand hearings and to challenge the factual statements contained in the plea waivers. Next, we question the constitutionality of the judicial removal statute. Moving on, we suggest that defense attorneys who advise clients to sign these waivers may be providing ineffective assistance of counsel. Finally, we argue that public policy and international law obligations may prohibit enforcement of these waivers.

## 1AC – Util (New Unbroken)

### FW

#### The standard is maximizing expected wellbeing. If you want me to spec further on my standard just tell me.

#### First, the constitutive obligation of the state is to protect citizen interest—individual obligations don’t apply in the public sphere. Goodin 95

Robert E. Goodin. Philosopher of Political Theory, Public Policy, and Applied Ethics. Utilitarianism as a Public Philosophy. Cambridge University Press, 1995. p. 26-7

The great adventure of utilitarianism as a guide to public conduct is that it avoids gratuitous sacrifices, it ensures as best we are able to ensure in the uncertain world of public policy-making that policies are sensitive to people’s interests or desires or preferences. The great failing of more deontological theories, applied to those realms, is that they fixate upon duties done for the sake of duty rather than for the sake of any good that is done by doing one’s duty. Perhaps it is permissible (perhaps it is even proper) for private individuals in the course of their personal affairs to fetishize duties done for their own sake. It would be a mistake for public officials to do likewise, not least because it is impossible. The fixation on motives makes absolutely no sense in the public realm, and might make precious little sense in the private one even, as Chapter 3 shows. The reason public action is required at all arises from the inability of uncoordinated individual action to achieve certain morally desirable ends. Individuals are rightly excused from pursuing those ends. The inability is real; the excuses, perfectly valid. But libertarians are right in their diagnosis, wrong in their prescription. That is the message of Chapter 2. The same thing that makes those excuses valid at the individual level – the same thing that relieves individuals of responsibility – makes it morally incumbent upon individuals to organize themselves into collective units that are capable of acting where they as isolated individuals are not. When they organize themselves into these collective units, those collective deliberations inevitably take place under very different circumstances and their conclusions inevitably take very different forms. Individuals are morally required to operate in that collective manner, in certain crucial respects. But they are practically circumscribed in how they can operate, in their collective mode. And those special constraints characterizing the public sphere of decision-making give rise to the special circumstances that make utilitarianism peculiarly apt for public policy-making, in ways set out more fully in Chapter 4. Government house utilitarianism thus understood is, I would argue, a uniquely defensible public philosophy.

#### Second is the act omission distinction, governments are morally responsible for their omissions because they always face choices between different sets of policy options, all of which advantage some while disadvantaging others.

Cass R. **Sunstein and Vermeule** Adrian [“Is Capital Punishment Morally Required? Acts, Omissions, and Life-Life Tradeoffs. Copyright (c) 2005 The Board of Trustees of Leland Stanford Junior University. Stanford Law Review December,2005 58 Stan. L. Rev. 703]

The critics of capital punishment have been led astray by uncritically applying the act/omission distinction to a regulatory setting. Their position condemns the "active" infliction of death by governments but does not condemn the "inactive" production of death that comes from the refusal to maintain a system [\*720] of capital punishment. The basic problem is that even if this selective condemnation can be justified at the level of individual behavior, it is difficult to defend for governments. n58 A great deal of work has to be done to explain why "inactive," but causal, government decisions should not be part of the moral calculus. Suppose that we endorse the deontological position that it is wrong to take human lives, even if overall welfare is promoted by taking them. Why does the system of capital punishment violate that position, if the failure to impose capital punishment also takes lives? We suggest that the distinction between government acts and omissions, even if conceptually coherent, is not morally relevant to the question of capital punishment. Some governmental actions are morally obligatory, and some governmental omissions are blameworthy. In this setting, we suggest, government is morally obligated to adopt capital punishment and morally at fault if it declines to do so. The most fundamental point is that, unlike individuals, governments always and necessarily face a choice between or among possible policies for regulating third parties. The distinction between acts and omissions may not be intelligible in this context, and even if it is, the distinction does not make a morally relevant difference. Most generally, government is in the business of creating permissions and prohibitions. When it explicitly or implicitly authorizes private action, it is not omitting to do anything or refusing to act. n61 Moreover, the distinction between authorized and unauthorized private action - for example, private killing - becomes obscure when the government formally forbids private action but chooses a set of policy instruments that do not adequately or fully discourage it. To be sure, a system of punishments that only weakly deters homicide, relative to other feasible punishments, does not quite authorize homicide, but that system is not properly characterized as an omission, and little turns on whether it can be so characterized. Suppose, for example, that government fails to characterize certain actions - say, sexual harassment - as tortious or violative of civil rights law and that it therefore permits employers to harass employees as they choose or to discharge employees for failing to submit to sexual harassment. It would be unhelpful to characterize the result as a product of governmental "inaction." If employers are permitted to discharge employees for refusing to submit to sexual harassment, it is because the law is allocating certain entitlements to employers rather than employees. Or consider the context of ordinary torts. When Homeowner B sues Factory A over air pollution, a decision not to rule for Homeowner B is not a form of inaction: it is the allocation to Factory A of a property right to pollute. In such cases, an apparent government omission is an action simply because it is an allocation of legal rights. Any decision that allocates such rights, by creating entitlements [\*722] and prohibitions, is not inaction at all.

#### Third, Phenomenal introspection is reliable and proves that util’s true.

Sinhababu Neil (National University of Singapore) “The epistemic argument for hedonism” http://philpapers.org/archive/SINTEA-3 accessed 2-4-16 JW

The Odyssey's treatment of these events demonstrates how dramatically ancient Greek moral intuitions differ from ours. It doesn't dwell on the brutality of Telemachus, who killed twelve women for the trivial reasons he states, making them suffer as they die. While gods and men seek vengeance for other great and small offenses in the Odyssey, no one finds this mass murder worth avenging. It's a minor event in the denouement to a happy ending in which Odysseus (who first proposes killing the women) returns home and Telemachus becomes a man. That the[y] Greeks could so easily regard these murders as part of a happy ending for heroes shows how deeply we disagree with them. It's as if we gave them a trolley problem with the 12 women on the side track and no one on the main track, and they judged it permissible for Telemachus to turn the trolley and kill them all. And this isn't some esoteric text of a despised or short-lived sect, but a central literary work of a long-lived and influential culture. Human history offers similarly striking examples of disagreement on a variety of topics. These include sexual morality; the treatment of animals; the treatment of other ethnicities, families, and social classes; the consumption of intoxicating substances; whether and how one may take vengeance; slavery; whether public celebrations are acceptable; and gender roles.12 Moral obligations to commit genocide were accepted not only by some 20th century Germans, but by much of the ancient world, including the culture that gave us the Old Testament. One can only view the human past and much of the present with horror at the depth of human moral error and the harm that has resulted. One might think to explain away much of this disagreement as the result of differing nonmoral beliefs. Those who disagree about nonmoral issues may disagree on the moral rightness of a particular action despite agreeing on the fundamental moral issues. For example, they may agree that healing the sick is right, but disagree about whether a particular medicine will heal or harm. This disagreement about whether to prescribe the medicine won't be fundamentally about morality, and won't support the argument from disagreement. I don't think the moral disagreements listed above are explained by differences in nonmoral belief. This isn't because sexists, racists, and bigots share the nonmoral views of those enlightened by feminism and other egalitarian doctrines – they don't. Rather, their differing views on nonmoral topics often are rationalizations of moral beliefs that fundamentally disagree with ours.13 Those whose fundamental moral judgments include commitments to the authority of men over women, or of one race over another, will easily accept descriptive psychological views that attribute less intelligence or rationality to women or the subjugated race.14 Moral disagreement supposedly arising from moral views in religious texts is similar. Given how rich and many-stranded most religious texts are, interpretive claims about their moral teachings often tell us more about the antecedent moral beliefs of the interpreter than about the text itself. This is why the same texts are interpreted to support so many different moral views. Similar phenomena occur with most moral beliefs. Environmentalists who value a lovely patch of wilderness will easily believe that its destruction will cause disaster, those who feel justified in eating meat will easily believe that the animals they eat don't suffer greatly, and libertarians who feel that redistributing wealth is unjust will easily believe that it raises unemployment. We shouldn't assume that differing moral beliefs on practical questions are caused by fundamental moral agreement combined with differing nonmoral beliefs. Often the differing nonmoral beliefs are caused by fundamental moral disagreement. As we have no precise way of quantifying the breadth of disagreement or determining its epistemic consequences, it's unclear exactly how much disagreement the argument requires. While this makes the argument difficult to evaluate, it shouldn't stop us from proceeding, as we have to use the unclear notion of widespread disagreement in ordinary epistemic practice. If 99.9% of botanists agree on some issue about plants, non-botanists should defer to their authority and believe as most of them do. But if disagreement between botanists is suitably widespread, non-botanists should remain agnostic. A more precise and systematic account of when disagreement is widespread enough to generate particular epistemic consequences would be very helpful. Until we have one, we must employ the unclear notion of widespread disagreement, or some similar notion, throughout epistemic practice. Against the background of widespread moral disagreement, there may still be universal or near-universal agreement on some moral questions. For example, perhaps all cultures agree that one should provide for one’s elderly parents, even though they generally disagree elsewhere. How do these narrow areas of moral agreement affect the argument? This all depends on whether the narrow agreement is reliably or unreliably caused. If narrow agreement results from a reliable process of belief-formation, it lets us avoid error, defeating the argument from disagreement. But widely accepted moral beliefs may result from widely prevailing unreliable processes leading everyone to the same errors. There's no special pressure to explain agreement in terms of reliable processes when disagreement is widespread. Explaining agreement in terms of reliable processes is preferable when we have some reason to think that the processes involved are generally reliable. Then we would want to understand cases of agreement in line with the general reliability of processes producing moral belief. But if disagreement is widespread, error is too. Since moral beliefs are so often false, invoking unreliable processes to explain them is better than invoking reliable ones. The next two sections discuss this in more detail. We have many plausible explanations of narrow agreement on which moral beliefs are unreliably caused. Evolutionary and sociological explanations of why particular moral beliefs are widely accepted often invoke unreliable mechanisms.15 On these explanations, we agree because some moral beliefs were so important for reproductive fitness that natural selection made them innate in us, or so important to the interests controlling moral education in each culture that they were inculcated in everyone. For example, parents' influence over their children's moral education would explain agreement that one should provide for one's elderly parents. Plausible normative ethical theories won't systematically connect these evolutionary and sociological explanations with moral facts. If disagreement and error are widespread, they'll provide useful ways to reconcile unusual cases of widespread agreement with the general unreliability of the processes producing moral belief. 1.3 If there is widespread error about a topic, we should retain only those beliefs about it formed through reliable processes Now I'll defend 3. First I'll show how the falsity of others' beliefs undermines one's own belief. Then I'll clarify the notion of a reliable process. I'll consider a modification to 3 that epistemic internalists might favor, and show that the argument accommodates it. I'll illustrate 3's plausibility by considering cases where it correctly guides our reasoning. Finally, I'll show how 3 is grounded in the intuitive response to grave moral error. First, a simple objection: “Why should I care whether other people have false beliefs? That's a fact about other people, and not about me. Even if most people are wrong about some topic, I may be one of the few right ones, even if there's no apparent reason to think that my way of forming beliefs is any more reliable.” While widespread error leaves open the possibility that one has true beliefs, it reduces the probability that my beliefs are true. Consider a parallel case. I have no direct evidence that I have an appendix, but I know that previous investigations have revealed appendixes in people. So induction suggests that I have an appendix. Similarly, I know on the basis of 1 and 2 that people's moral beliefs are, in general, rife with error. So even if I have no direct evidence of error in my moral beliefs, induction suggests that they are rife with error as well. 3 invokes the reliability of the processes that produce our beliefs. Assessing processes of belief-formation for reliability is an important part of our epistemic practices. If someone tells me that my belief is entirely produced by wishful thinking, I can't simply accept that and maintain the belief. Knowing that wishful thinking is unreliable, I must either deny that my belief is entirely caused by wishful thinking or abandon the belief. But if someone tells me that my belief is entirely the result of visual perception, I'll maintain it, assuming that it concerns sizable nearby objects or something else about which visual perception is reliable. While providing precise criteria for individuating processes of belief-formation is hard, as the literature on the generality problem for reliabilism attests, individuating them somehow is indispensable to our epistemic practices.16 Following Alvin Goldman's remark that “It is clear that our ordinary thought about process types slices them broadly” (346), I'll treat cognitive process types like wishful thinking and visual perception as appropriately broad.17 Trusting particular people and texts, meanwhile, are too narrow. Cognitive science may eventually help us better individuate cognitive process types for the purposes of reliability assessments and discover which processes produce which beliefs. Epistemic internalists might reject 3 as stated, claiming that it isn't widespread error that would justify giving up our beliefs, but our having reason to believe that there is widespread error. They might also claim that our justification for believing the outputs of some process depends not on its reliability, but on what we have reason to believe about its reliability. The argument will still go forward if 3 is modified to suit internalist tastes, changing its antecedent to “If we have reason to believe that there is widespread error about a topic” or changing its consequent to “we should retain only those beliefs about it that we have reason to believe were formed through reliable processes.” While 3's antecedent might itself seem unnecessary on the original formulation, it's required for 3 to remain plausible on the internalist modification. Requiring us to have reason to believe that any of our belief-formation processes are reliable before retaining their outputs might lead to skepticism. The antecedent limits the scope of the requirement to cases of widespread error, averting general skeptical conclusions. The argument will still attain its conclusion under these modifications. Successfully defending the premises of the argument and deriving widespread error (5) and unreliability (7) gives those of us who have heard the defense and derivation reason to believe 5 and 7. This allows us to derive 8. (Thus the pronoun 'we' in 3, 6, and 8.) 3 describes the right response to widespread error in many actual cases. Someone in the 12th century, especially upon hearing the disagreeing views of many cultures regarding the origins of the universe, would do well to recognize that error on this topic was widespread and retreat to agnosticism about it. Only when modern astrophysics extended reliable empirical methods to cosmology would it be rational to move forward from agnosticism and accept a particular account of how the universe began. Similarly, disagreement about which stocks will perform better than average is widespread among investors, suggesting that one's beliefs on the matter have a high likelihood of error. It's wise to remain agnostic about the stock market without an unusually reliable way of forming beliefs – for example, the sort of secret insider information that it's illegal to trade on. 3 permits us to hold onto our moral beliefs in individual cases of moral disagreement, suggesting skeptical conclusions only when moral disagreement is widespread. When we consider a single culture's abhorrent moral views, like the Greeks' acceptance of Telemachus and Odysseus' murders of the servant women, we don't think that maybe the Greeks were right to see nothing wrong and we should reconsider our outrage. Instead, we're horrified by their grave moral error. I think this is the right response. We're similarly horrified by the moral errors of Hindus who burned widows on their husbands' funeral pyres, American Southerners who supported slavery and segregation, our contemporaries who condemn homosexuality, and countless others. The sheer number of cases like this requires us to regard moral error as a pervasive feature of the human condition. Humans typically form moral beliefs through unreliable processes and have appendixes. We are humans, so this should reduce our confidence in our moral judgments. The prevalence of error in a world full of moral disagreement demonstrates how bad humans are at forming true moral beliefs, undermining our own moral beliefs. Knowing that unreliable processes so often lead humans to their moral beliefs, we'll require our moral beliefs to issue from reliable processes. 1.4 If there is widespread error about morality, there are no reliable processes for forming moral beliefs A reliable process for forming moral beliefs would avert skeptical conclusions. I'll consider several processes and argue that they don't help us escape moral skepticism. Ordinary moral intuition, whether it involves a special rational faculty or our emotional responses, is shown to be unreliable by the existence of widespread error. The argument from disagreement either prevents reflective equilibrium from generating moral conclusions or undermines it. Conceptual analysis is reliable, but delivers the wrong kind of knowledge to avert skepticism. If all our processes for forming moral beliefs are unreliable, moral skepticism looms. 4 is false only because of one process – phenomenal introspection, which lets us know of the goodness of pleasure, as the second half of this paper will discuss. Widespread error guarantees the unreliability of any process by which we form all or almost all of our moral beliefs. While widespread error allows some processes responsible for a small share of our moral beliefs to predominantly create true beliefs, it implies that any process generating a very large share of moral belief must be highly error-prone. Since the process produced so many of our moral beliefs, and so many of them are erroneous, it must be responsible for a large share of the error. If more of people's moral beliefs were true, things would be otherwise. Widespread truth would support the reliability of any process that produced most or all of our moral beliefs, since that process would be responsible for so much true belief. But given widespread error, ordinary moral intuition must be unreliable. This point provides a forceful response to Moorean opponents who insist that we can't give up the reliability of a process by which we form all or nearly all of our beliefs on an important topic, since this would permit counterintuitive skeptical conclusions. Even if this Moorean response helps against external world skeptics who employ counterfactual thought experiments involving brains in vats, it doesn't help against moral skeptics who use 1 and 2 to derive widespread actual error. Once we accept that widespread error actually obtains, a great deal of human moral knowledge has already vanished. Insisting on the reliability of the process then seems implausible and pointless. I'll briefly consider two conceptions of moral intuition – as a special rational faculty by which we grasp non-natural moral facts, and as a process by which our emotions lead us to form moral beliefs – and show how widespread error guarantees their unreliability. Some philosophers regard moral intuition as involving a special rational faculty that lets us know non-natural moral facts.18 They argue that knowledge on many topics including mathematics, logic, and modality involves this rational faculty, so moral knowledge might operate similarly. This suggests a way for them to defend the reliability of moral intuition in the face of widespread error: if intuition is reliable about these other things, its overall reliability across moral and nonmoral areas allows us to reliably form moral beliefs by using it. This defense won't work. When an epistemic process is manifestly unreliable on some topic, as widespread error shows any process responsible for most of our moral beliefs to be, the reliability of that process elsewhere won't save it on that topic. Even if testimony is reliable, this doesn't imply the reliability of compulsive gamblers' testimony about the next spin of the roulette wheel. Even if intuition remains reliable elsewhere, widespread disagreement still renders it unreliable in ethics. I see ordinary moral intuition as a process of emotional perception in which our feelings cause us to form moral beliefs.19 Just as visual experiences of color cause beliefs about the colors of surfaces, emotional experiences cause moral beliefs. Pleasant feelings like approval, admiration, or hope in considering actions, persons, or states of affairs lead us to believe they are right, virtuous or good. Unpleasant emotions like guilt, disgust, or horror in considering actions, persons, or states of affairs lead us to believe they are wrong, vicious, or bad. We might have regarded this as a reliable way to know about moral facts, just as visual perception is a reliable way to know about color, if not for widespread error. But because of widespread error, we can only see it as an unreliable process responsible for our dismal epistemic situation. Reflective equilibrium is the prevailing methodology in normative ethics today. It involves modifying our beliefs about particular cases and general principles to make them cohere. Whether or not nonmoral propositions like the premises of the argument from disagreement are admissible in reflective equilibrium, widespread error prevents reflective equilibrium from reliably generating a true moral theory, as I'll explain. If the premises of the argument from disagreement are admitted into reflective equilibrium, the argument can be reconstructed there, and reflective equilibrium will dictate that we give up all of our moral beliefs. To avoid this conclusion, the premises of the argument from disagreement would have to be revised away on moral grounds. These premises are a metaethical claim about the objectivity of morality which seems to be a conceptual truth, an anthropological claim about the existence of disagreement, a very general epistemic claim about when we should revise our beliefs, and a more empirically grounded epistemic claim about our processes of belief-formation and their reliability. While reflective equilibrium may move us to revise substantive moral beliefs in view of other substantive moral beliefs, claims of these other kinds are less amenable to such revision. Unless ambitious arguments for revising these nonmoral claims away succeed, we must follow the argument to its conclusion and accept that reflective equilibrium makes moral skeptics of us.20 If only moral principles and judgments are considered in reflective equilibrium, it won't make moral skeptics of us, but the argument from disagreement will undermine its conclusions. The argument forces us to give up the pre-existing moral beliefs against which we test various moral propositions in reflective equilibrium. While we may be justified in believing something because it coheres with our other beliefs, this justification goes away once we see that those beliefs should be abandoned. Coherence with beliefs that we know we should give up doesn't confer justification. Now I'll consider conceptual analysis. It can produce moral beliefs about conceptual truths – for example, that the moral supervenes on the nonmoral, and that morality is objective. It also may provide judgments about relations between different moral concepts – perhaps, that if the only moral difference between two actions is that one would produce morally better consequences than the other, doing what produces better consequences is right. I regard conceptual analysis as reliable, so that the argument from disagreement does not force us to give up the beliefs about morality it produces. Unfortunately, if analytic naturalism is false, as has been widely held in metaethics since G. E. Moore, conceptual analysis won't provide all the knowledge we need to build a normative ethical theory.21 Even when it relates moral concepts like goodness and rightness to each other, it doesn't tell us that anything is good or right to begin with. That's the knowledge we need to avoid moral skepticism. So far I've argued that our epistemic and anthropological situation, combined with plausible metaethical and epistemic principles, forces us to abandon our moral beliefs. But if a reliable process of moral belief-formation exists, 4 is false, and we can answer the moral skeptic. The rest of this paper discusses the only reliable process I know of. 2.1 Phenomenal introspection reveals pleasure's goodness Phenomenal introspection, a reliable way of forming true beliefs about our experiences, produces the belief that pleasure is good. Even as our other processes of moral belief-formation prove unreliable, it provides reliable access to pleasure's goodness, justifying the positive claims of hedonism. This section clarifies what phenomenal introspection and pleasure are and explains how phenomenal introspection provides reliable access to pleasure's value. Section 2.2 argues that pleasure's goodness is genuine moral value, rather than value of some other kind. In phenomenal introspection we consider our subjective experience, or phenomenology, and determine what it's like. Phenomenal introspection can be reliable while dreaming or hallucinating, as long as we can determine what the dreams or hallucinations are like. By itself, phenomenal introspection doesn't produce beliefs about things outside experience, or about relations between our experiences and non-experiential things. So it doesn't produce judgments about the rightness of actions or the goodness of non-experiential things. It can only tell us about the intrinsic properties of experience itself. Phenomenal introspection is generally reliable, even if mistakes about immediate experience are possible. Experience is rich in detail, so one could get some of the details wrong in belief. Under adverse conditions involving false expectations, misleading evidence about what one's experiences will be, or extreme emotional states that disrupt belief-formation, larger errors are possible. Paradigmatically reliable processes like vision share these failings. Vision sometimes produces false beliefs under adverse conditions, or when we're looking at complex things. Still, it's so reliable as to be indispensible in ordinary life. Regarding phenomenal introspection as unreliable is about as radical as skepticism about the reliability of vision. While contemporary psychologists reject introspection into one's motivations and other psychological causal processes as unreliable, phenomenal introspection fares better. Daniel Kahneman, for example, writes that “experienced utility is best measured by moment-based methods that assess the experience of the present.”22 Even those most skeptical about the reliability of phenomenal introspection, like Eric Schwitzgebel, concede that we can reliably introspect whether we are in serious pain.23 Then we should be able to introspectively determine what pain is like. So I'll assume the reliability of phenomenal introspection. One can form a variety of beliefs using phenomenal introspection. For example, one can believe that one is having sound experiences of particular noises and visual experiences of different shades of color. When looking at a lemon and considering the phenomenal states that are yellow experiences, one can form some beliefs about their intrinsic features – for example, that they're bright experiences. And when considering experiences of pleasure, one can make some judgments about their intrinsic features – for example, that they're good experiences. Just as one can look inward at one's experience of lemon yellow and recognize its brightness, one can look inward at one's experience of pleasure and recognize its goodness.24 When I consider a situation of increasing pleasure, I can form the belief that things are better than they were before, just as I form the belief that there's more brightness in my visual field as lemon yellow replaces black. And when I suddenly experience pain, I can form the belief that things are worse in my experience than they were before. Having pleasure consists in one's experience having a positive hedonic tone. Without descending into metaphor, it's hard to give a further account of what pleasure is like than to say that when one has it, one feels good. As Aaron Smuts writes in defending the view of pleasure as hedonic tone, “to 'feel good' is about as close to an experiential primitive as we get.” 25 Fred Feldman sees pleasure as fundamentally an attitude rather than a hedonic tone.26 But as long as hedonic tones are real components of experience, phenomenal introspection will reveal pleasure's goodness. Opponents of the hedonic tone account of pleasure usually concede that hedonic tones exist, as Feldman seems to in discussing “sensory pleasures,” which he thinks his view helps us understand. Even on his view of pleasure, phenomenal introspection can produce the belief that some hedonic tones are good while others are bad. There are many different kinds of pleasant experiences. There are sensory pleasures, like the pleasure of tasting delicious food, receiving a massage, or resting your tired limbs in a soft bed after a hard day. There are the pleasures of seeing that our desires are satisfied, like the pleasure of winning a game, getting a promotion, or seeing a friend succeed. These experiences differ in many ways, just as the experiences of looking at lemons and the sky on a sunny day differ. It's easy to see the appeal of Feldman's view that pleasures “have just about nothing in common phenomenologically” (79). But just as our experiences in looking at lemons and the sky on a sunny day have brightness in common, pleasant experiences all have “a certain common quality – feeling good,” as Roger Crisp argues (109).27 As the analogy with brightness suggests, hedonic tone is phenomenologically very thin, and usually mixed with a variety of other experiences.28 Pleasure of any kind feels good, and displeasure of any kind feels bad. These feelings may or may not have bodily location or be combined with other sensory states like warmth or pressure. “Pleasure” and “displeasure” mean these thin phenomenal states of feeling good and feeling bad. As Joseph Mendola writes, “the pleasantness of physical pleasure is a kind of hedonic value, a single homogenous sensory property, differing merely in intensity as well as in extent and duration, which is yet a kind of goodness” (442).29 What if Feldman is right and hedonic states feel good in fundamentally different ways? Then phenomenal introspection suggests a pluralist variety of hedonism. Each fundamental flavor of pleasure will have a fundamentally different kind of goodness, as phenomenal introspection more accurate than mine will reveal. This isn't my view, but I suggest it to those convinced that hedonic tones are fundamentally heterogenous. If phenomenal introspection reliably informs us that pleasure is good, how can anyone believe that their pleasures are bad? Other processes of moral belief-formation are responsible for these beliefs. Someone who feels disgust or guilt about sex may not only regard sex as immoral, but the pleasure it produces as bad. Even if phenomenal introspection on sexual pleasure disposes one to believe that it's good, stronger negative emotional responses to it may more strongly dispose one to believe that it's bad, following the emotional perception model suggested in section 1.4. Explaining disagreement about pleasure's value in terms of other processes lets hedonists maintain that phenomenal introspection univocally supports pleasure's goodness. As long as negative judgments of pleasure come from unreliable processes instead of phenomenal introspection, the argument from disagreement eliminates them. The parallel between yellow’s brightness and pleasure’s goodness demonstrates the objectivity of the value detected in phenomenal introspection. Just as anyone's yellow experiences objectively are bright experiences, anyone's pleasure objectively is a good experience.30 While one's phenomenology is often called one's “subjective experience”, facts about it are still objective. “Subjective” in “subjective experience” means “internal to the mind”, not “ontologically dependent on attitudes towards it.” My yellow-experiences objectively have brightness. Anyone who thought my yellow-experiences lacked brightness would be mistaken. Pleasure similarly is objectively good. It's true that anyone's pleasure is good. Anyone who denies this is mistaken. As Mendola writes, the value detected in phenomenal introspection is “a plausible candidate for objective value” (712). Even though phenomenal introspection only tells me about my own phenomenal states, I can know that others' pleasure is good. Of course, I can't phenomenally introspect their pleasures, just as I can't phenomenally introspect pleasures that I'll experience next year. But if I consider my experiences of lemon yellow and ask what it would be like if others had the same experiences, I must think that they would be having bright experiences. Similarly, if in a pleasant moment I consider what it's like for others to have exactly the experience I'm having, I must think that they're having good experiences. If they have exactly the same experiences I'm having, their experiences will have exactly the same intrinsic properties as mine. This is also how I know that if I have the same experience in the future, it'll have the same intrinsic properties. Even though the only pleasure I can introspect is mine now, I should believe that others' pleasures and my pleasures at other times are good, just as I should believe that yellow experienced by others and myself at other times is bright. My argument thus favors the kind of universal hedonism that supports utilitarianism, not egoistic hedonism.

### Offense

#### Under Sessions, prosecutors are pushing deportation through a plea deal to illegal immigrants. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

ATTORNEY GENERAL JEFF Sessions is pushing federal prosecutors to bypass immigration courts as part of the Trump administration’s hard-line strategy on deportation. Behind closed doors, prosecutors are pressing noncitizens to sign away their rights to make a case for remaining in the country. In the most dramatic cases, immigrants charged with crimes are signing plea agreements in which they promise they have “no present fear of torture” on returning to their home country. The pleas can block them from seeking asylum or protection from persecution. While plea agreements such as these are not entirely new — and are difficult to track — some defense attorneys who specialize in immigration fear they will become commonplace under Sessions. They’re also concerned prosecutors will push them for minor crimes that previously might not have led an immigration judge to order deportation. Immigration experts question the fairness of such provisions in plea agreements and even their overall constitutionality. Some say they might violate international treaties. Susan Church, an attorney who was one of the first to sue the government over President Donald Trump’s executive orders, said the leverage prosecutors hold at the plea-bargaining table heightens the risk of abuse. “Obviously I have seriously grave concerns about eliminating the small level of due process that’s afforded to immigrants in immigration court,” she said. “They absolutely should not be proposed as part of a plea agreement.” An examination of court records, memos from the Department of Justice, and other documents, as well as interviews with lawyers, suggest federal prosecutors are increasingly likely to demand plea bargains in which noncitizens sign away these due process rights. In one recent case in Massachusetts, the prosecutor said the provisions were “non-negotiable,” according to the defendant’s attorney. In a memo in April, Sessions directed all federal prosecutors to place higher priority on certain immigration offenses, including improper entry, illegal re-entry, and unlawful transportation of undocumented immigrants. He further instructed prosecutors, when possible, to seek “judicial orders of removal” that enable federal judges to order deportation without any hearing in immigration court. “I know many of you are already seeking these measures from District Courts,” Sessions wrote. “I ask that you continue this effort to achieve the results consistent with this guidance.” Three months later, in his regular bulletin to U.S. attorneys, Sessions invited attorneys from Immigration and Customs Enforcement to share tips on what they called a “game-changer”: Make deportation part of plea agreements offered to noncitizens charged with crimes. This “seldom used” strategy would “offer a powerful and efficient tool for prosecuting criminal aliens — one that provides enormous value to the Department of Homeland Security (DHS) and furthers new Department of Justice policy,” the how-to memo stated. It went on to list benefits, including using the waivers “as a bargaining chip to negotiate a plea with a defendant who is less interested in fighting removal than in litigating the prison sentence.” Michael Cohen, a former federal prosecutor who is now a criminal defense attorney in Florida and New York, said he had heard about the Justice Department’s new strategy but has yet to see it in action. He said he would be extremely hesitant to advise a client to sign such a waiver. However, Cohen said, an individual prosecutor might not have the same discretion in light of the administration’s directives. “You’re duty-bound to follow your office’s policies,” he said. “I understand that.” Devin O’Malley, a spokesperson for the Justice Department, said these types of plea agreements can “increase the efficiency of the immigration court system, save Americans’ tax dollars, and promote good government.” “This common-sense commitment to the rule of law will help reduce pressure on the immigration court pending caseload that has more than doubled since 2011,” O’Malley said in an email. While district offices declined to discuss plea waiver language, materials from a Senate Judiciary Committee hearing in 2008 pointed to how some prosecutors might be “hesitant to use it as a general practice.” The same report noted the rarity with which plea agreements had been used to order the deportation of immigrant defendants: 160 times between fiscal year 2002 and fiscal year 2008. In the same time period, ICE removed more than 1 million people, according to data analyzed by the Transactional Records Access Clearinghouse, run by Syracuse University. Donna Lee Elm, who is in charge of federal public defenders in the Middle District of Florida and an expert on plea bargain waivers, said the Justice Department’s new tactics are affecting many people who “actually should be entitled to be heard in immigration court.” “They’re using the hammer of threat of prosecution and a long prison sentence to give up the rights in an immigration case,” she said. Waiving a hearing in immigration court is not trivial. In the past five years, about 30 percent of noncitizens charged with crimes have succeeded in convincing an immigration judge to let them stay in the country, according to TRAC data. Elm said some of the plea agreements likely are violating decades-old international treaties, in which the federal government vowed to enable people to seek asylum in this country. “You can’t waive that — it’s not like waiving the right to trial,” she said. “They just didn’t think these through.”

#### Mass deportations coming – judge quotas. Helm 4/3

Helm, Angela. “Deport Dem! Trump Administration Imposes Quotas on Immigration Judges.”The Root, Www.theroot.com, 3 Apr. 2018, www.theroot.com/deport-dem-trump-administration-imposes-quotas-on-immi-1824293202. Ms. Bronner Helm is Contributing Editor at The Root. //nhs-VA

On Friday, the U.S. Justice Department, under Jefferson Beauregard Sessions, notified all U.S. immigration judges that their job-performance evaluations will be tied to how quickly they close cases, saying that the aim is to reduce a lengthy backlog of deportation decisions. Sessions says that the current backlog allows those facing charges to stay in the U.S. longer than they should, though most languish in substandard detention centers. The stated reason for the new policy is to reduce backlog, yet the effect will surely be higher rates of deportations. Unlike judges in regular courts, immigration judges work for the executive branch and, in this case, the Justice Department. Since he’s taken office, Donald Trump’s administration has also sought to expand “expedited removal orders,” which currently are used if individuals are arrested within 100 miles of U.S. borders and if they’ve been inside the U.S. two weeks or less. They do not see a judge. [USA Today reports](https://www.usatoday.com/pages/interactives/graphics/deportation-explainer/) that the Trump recommendation for expansion includes making expedited removal nationwide (that is, you can face it if you are caught anywhere within the U.S.), and used if persons have been in the U.S. less than two years. The new standards for immigration judges will go into effect Oct. 1, [according to the Wall Street Journal](https://www.wsj.com/articles/immigration-judges-face-new-quotas-in-bid-to-speed-deportations-1522696158). It reports: Under the new quotas, judges will be required to complete 700 cases a year and to see fewer than 15 percent of their decisions sent back by a higher court. Over the past five years, the average judge completed 678 cases in a year, said Justice Department spokesman Devin O’Malley. But there was a range, he said, with some judges completing as many as 1,500 cases in a year. In addition, they will be required to meet other metrics, depending on their particular workload. One standard demands that 85 percent of removal cases for people who are detained be completed within three days of a hearing on the merits of the case. Another metric demands that 95 percent of all merits hearings be completed on the initial scheduled hearing date.

## 1AC – Util (Old Unbroken)

### FW

#### The standard is maximizing expected wellbeing. If you want me to spec further on my standard just tell me.

#### First, the constitutive obligation of the state is to protect citizen interest—individual obligations are not applicable in the public sphere. Goodin 95

Robert E. Goodin. Philosopher of Political Theory, Public Policy, and Applied Ethics. Utilitarianism as a Public Philosophy. Cambridge University Press, 1995. p. 26-7

The great adventure of utilitarianism as a guide to public conduct is that it avoids gratuitous sacrifices, it ensures as best we are able to ensure in the uncertain world of public policy-making that policies are sensitive to people’s interests or desires or preferences. The great failing of more deontological theories, applied to those realms, is that they fixate upon duties done for the sake of duty rather than for the sake of any good that is done by doing one’s duty. Perhaps it is permissible (perhaps it is even proper) for private individuals in the course of their personal affairs to fetishize duties done for their own sake. It would be a mistake for public officials to do likewise, not least because it is impossible. The fixation on motives makes absolutely no sense in the public realm, and might make precious little sense in the private one even, as Chapter 3 shows. The reason public action is required at all arises from the inability of uncoordinated individual action to achieve certain morally desirable ends. Individuals are rightly excused from pursuing those ends. The inability is real; the excuses, perfectly valid. But libertarians are right in their diagnosis, wrong in their prescription. That is the message of Chapter 2. The same thing that makes those excuses valid at the individual level – the same thing that relieves individuals of responsibility – makes it morally incumbent upon individuals to organize themselves into collective units that are capable of acting where they as isolated individuals are not. When they organize themselves into these collective units, those collective deliberations inevitably take place under very different circumstances and their conclusions inevitably take very different forms. Individuals are morally required to operate in that collective manner, in certain crucial respects. But they are practically circumscribed in how they can operate, in their collective mode. And those special constraints characterizing the public sphere of decision-making give rise to the special circumstances that make utilitarianism peculiarly apt for public policy-making, in ways set out more fully in Chapter 4. Government house utilitarianism thus understood is, I would argue, a uniquely defensible public philosophy.

#### Second, only impacts and values that exist in the physical world are relevant. Physical realism is the only meaningful ontological theory of being. Williams,

Donald Williams. “Naturalism and the Nature of Things.” The Philosophical Review, Vol. 53, No. 5 (Sep., 1944), pp. 417-443. Duke UP. http://www.jstor.org/stable/2181355

Casting up our accounts to this point, we observe that physical realism is in sum a meaningful, consistent, and essentially confirmable hypothesis. We turn accordingly to assess its credibility a posterior, in relation to the actual evidence, as we should that of a scientific theory or a war communique. We can know forthwith that materialism, granted that metaphysics is confirmable at all, is in principle the most thoroughly confirmable of all world hypotheses. It initiates the most conclusive confirmation or disconfirmation. The ideal aim of systematic knowledge is to disclose the fewest primitive elements into which the diversest objects are analyzable, and the fewest primitive facts, singular and general, from which the behavior of things is deducible. Metaphysics is the most 'scientific' of the sciences because it tries the hardest to explain every kind of fact by one simple principle or simple set of principles. It is the most empirical of sciences (as Peirce reminded us) because, by the same token, a metaphysics is relevant to and confirmable by every item of every experience, whereas every other science is concerned with only a few select and abstract aspects of some experiences, Physical realism is the ideal metaphysics, the veritable paradigm of philosophy, because its category of spatio-temporal pattern best permits analysis of diverse complexity to uniform and ordered simplicities, is most thoroughly numerable, and so most exactly and systematically calculable. Socratic purposes, Platonic ideals, Aristotelian qualities, Plotinian hierarchies-these are surds in comparison with a system de la nature, limned in patterns of action in the ordered dimensions of a spatio-temporal hypersphere

#### Third is the act omission distinction, governments are morally responsible for their omissions because they always face choices between different sets of policy options, all of which advantage some while disadvantaging others.

Cass R. **Sunstein and Vermeule** Adrian [“Is Capital Punishment Morally Required? Acts, Omissions, and Life-Life Tradeoffs. Copyright (c) 2005 The Board of Trustees of Leland Stanford Junior University. Stanford Law Review December,2005 58 Stan. L. Rev. 703]

The critics of capital punishment have been led astray by uncritically applying the act/omission distinction to a regulatory setting. Their position condemns the "active" infliction of death by governments but does not condemn the "inactive" production of death that comes from the refusal to maintain a system [\*720] of capital punishment. The basic problem is that even if this selective condemnation can be justified at the level of individual behavior, it is difficult to defend for governments. n58 A great deal of work has to be done to explain why "inactive," but causal, government decisions should not be part of the moral calculus. Suppose that we endorse the deontological position that it is wrong to take human lives, even if overall welfare is promoted by taking them. Why does the system of capital punishment violate that position, if the failure to impose capital punishment also takes lives? We suggest that the distinction between government acts and omissions, even if conceptually coherent, is not morally relevant to the question of capital punishment. Some governmental actions are morally obligatory, and some governmental omissions are blameworthy. In this setting, we suggest, government is morally obligated to adopt capital punishment and morally at fault if it declines to do so. The most fundamental point is that, unlike individuals, governments always and necessarily face a choice between or among possible policies for regulating third parties. The distinction between acts and omissions may not be intelligible in this context, and even if it is, the distinction does not make a morally relevant difference. Most generally, government is in the business of creating permissions and prohibitions. When it explicitly or implicitly authorizes private action, it is not omitting to do anything or refusing to act. n61 Moreover, the distinction between authorized and unauthorized private action - for example, private killing - becomes obscure when the government formally forbids private action but chooses a set of policy instruments that do not adequately or fully discourage it. To be sure, a system of punishments that only weakly deters homicide, relative to other feasible punishments, does not quite authorize homicide, but that system is not properly characterized as an omission, and little turns on whether it can be so characterized. Suppose, for example, that government fails to characterize certain actions - say, sexual harassment - as tortious or violative of civil rights law and that it therefore permits employers to harass employees as they choose or to discharge employees for failing to submit to sexual harassment. It would be unhelpful to characterize the result as a product of governmental "inaction." If employers are permitted to discharge employees for refusing to submit to sexual harassment, it is because the law is allocating certain entitlements to employers rather than employees. Or consider the context of ordinary torts. When Homeowner B sues Factory A over air pollution, a decision not to rule for Homeowner B is not a form of inaction: it is the allocation to Factory A of a property right to pollute. In such cases, an apparent government omission is an action simply because it is an allocation of legal rights. Any decision that allocates such rights, by creating entitlements [\*722] and prohibitions, is not inaction at all.

#### Fourth, Phenomenal introspection is reliable and proves that util’s true.

Sinhababu Neil (National University of Singapore) “The epistemic argument for hedonism” http://philpapers.org/archive/SINTEA-3 accessed 2-4-16 JW

The Odyssey's treatment of these events demonstrates how dramatically ancient Greek moral intuitions differ from ours. It doesn't dwell on the brutality of Telemachus, who killed twelve women for the trivial reasons he states, making them suffer as they die. While gods and men seek vengeance for other great and small offenses in the Odyssey, no one finds this mass murder worth avenging. It's a minor event in the denouement to a happy ending in which Odysseus (who first proposes killing the women) returns home and Telemachus becomes a man. That the[y] Greeks could so easily regard these murders as part of a happy ending for heroes shows how deeply we disagree with them. It's as if we gave them a trolley problem with the 12 women on the side track and no one on the main track, and they judged it permissible for Telemachus to turn the trolley and kill them all. And this isn't some esoteric text of a despised or short-lived sect, but a central literary work of a long-lived and influential culture. Human history offers similarly striking examples of disagreement on a variety of topics. These include sexual morality; the treatment of animals; the treatment of other ethnicities, families, and social classes; the consumption of intoxicating substances; whether and how one may take vengeance; slavery; whether public celebrations are acceptable; and gender roles.12 Moral obligations to commit genocide were accepted not only by some 20th century Germans, but by much of the ancient world, including the culture that gave us the Old Testament. One can only view the human past and much of the present with horror at the depth of human moral error and the harm that has resulted. One might think to explain away much of this disagreement as the result of differing nonmoral beliefs. Those who disagree about nonmoral issues may disagree on the moral rightness of a particular action despite agreeing on the fundamental moral issues. For example, they may agree that healing the sick is right, but disagree about whether a particular medicine will heal or harm. This disagreement about whether to prescribe the medicine won't be fundamentally about morality, and won't support the argument from disagreement. I don't think the moral disagreements listed above are explained by differences in nonmoral belief. This isn't because sexists, racists, and bigots share the nonmoral views of those enlightened by feminism and other egalitarian doctrines – they don't. Rather, their differing views on nonmoral topics often are rationalizations of moral beliefs that fundamentally disagree with ours.13 Those whose fundamental moral judgments include commitments to the authority of men over women, or of one race over another, will easily accept descriptive psychological views that attribute less intelligence or rationality to women or the subjugated race.14 Moral disagreement supposedly arising from moral views in religious texts is similar. Given how rich and many-stranded most religious texts are, interpretive claims about their moral teachings often tell us more about the antecedent moral beliefs of the interpreter than about the text itself. This is why the same texts are interpreted to support so many different moral views. Similar phenomena occur with most moral beliefs. Environmentalists who value a lovely patch of wilderness will easily believe that its destruction will cause disaster, those who feel justified in eating meat will easily believe that the animals they eat don't suffer greatly, and libertarians who feel that redistributing wealth is unjust will easily believe that it raises unemployment. We shouldn't assume that differing moral beliefs on practical questions are caused by fundamental moral agreement combined with differing nonmoral beliefs. Often the differing nonmoral beliefs are caused by fundamental moral disagreement. As we have no precise way of quantifying the breadth of disagreement or determining its epistemic consequences, it's unclear exactly how much disagreement the argument requires. While this makes the argument difficult to evaluate, it shouldn't stop us from proceeding, as we have to use the unclear notion of widespread disagreement in ordinary epistemic practice. If 99.9% of botanists agree on some issue about plants, non-botanists should defer to their authority and believe as most of them do. But if disagreement between botanists is suitably widespread, non-botanists should remain agnostic. A more precise and systematic account of when disagreement is widespread enough to generate particular epistemic consequences would be very helpful. Until we have one, we must employ the unclear notion of widespread disagreement, or some similar notion, throughout epistemic practice. Against the background of widespread moral disagreement, there may still be universal or near-universal agreement on some moral questions. For example, perhaps all cultures agree that one should provide for one’s elderly parents, even though they generally disagree elsewhere. How do these narrow areas of moral agreement affect the argument? This all depends on whether the narrow agreement is reliably or unreliably caused. If narrow agreement results from a reliable process of belief-formation, it lets us avoid error, defeating the argument from disagreement. But widely accepted moral beliefs may result from widely prevailing unreliable processes leading everyone to the same errors. There's no special pressure to explain agreement in terms of reliable processes when disagreement is widespread. Explaining agreement in terms of reliable processes is preferable when we have some reason to think that the processes involved are generally reliable. Then we would want to understand cases of agreement in line with the general reliability of processes producing moral belief. But if disagreement is widespread, error is too. Since moral beliefs are so often false, invoking unreliable processes to explain them is better than invoking reliable ones. The next two sections discuss this in more detail. We have many plausible explanations of narrow agreement on which moral beliefs are unreliably caused. Evolutionary and sociological explanations of why particular moral beliefs are widely accepted often invoke unreliable mechanisms.15 On these explanations, we agree because some moral beliefs were so important for reproductive fitness that natural selection made them innate in us, or so important to the interests controlling moral education in each culture that they were inculcated in everyone. For example, parents' influence over their children's moral education would explain agreement that one should provide for one's elderly parents. Plausible normative ethical theories won't systematically connect these evolutionary and sociological explanations with moral facts. If disagreement and error are widespread, they'll provide useful ways to reconcile unusual cases of widespread agreement with the general unreliability of the processes producing moral belief. 1.3 If there is widespread error about a topic, we should retain only those beliefs about it formed through reliable processes Now I'll defend 3. First I'll show how the falsity of others' beliefs undermines one's own belief. Then I'll clarify the notion of a reliable process. I'll consider a modification to 3 that epistemic internalists might favor, and show that the argument accommodates it. I'll illustrate 3's plausibility by considering cases where it correctly guides our reasoning. Finally, I'll show how 3 is grounded in the intuitive response to grave moral error. First, a simple objection: “Why should I care whether other people have false beliefs? That's a fact about other people, and not about me. Even if most people are wrong about some topic, I may be one of the few right ones, even if there's no apparent reason to think that my way of forming beliefs is any more reliable.” While widespread error leaves open the possibility that one has true beliefs, it reduces the probability that my beliefs are true. Consider a parallel case. I have no direct evidence that I have an appendix, but I know that previous investigations have revealed appendixes in people. So induction suggests that I have an appendix. Similarly, I know on the basis of 1 and 2 that people's moral beliefs are, in general, rife with error. So even if I have no direct evidence of error in my moral beliefs, induction suggests that they are rife with error as well. 3 invokes the reliability of the processes that produce our beliefs. Assessing processes of belief-formation for reliability is an important part of our epistemic practices. If someone tells me that my belief is entirely produced by wishful thinking, I can't simply accept that and maintain the belief. Knowing that wishful thinking is unreliable, I must either deny that my belief is entirely caused by wishful thinking or abandon the belief. But if someone tells me that my belief is entirely the result of visual perception, I'll maintain it, assuming that it concerns sizable nearby objects or something else about which visual perception is reliable. While providing precise criteria for individuating processes of belief-formation is hard, as the literature on the generality problem for reliabilism attests, individuating them somehow is indispensable to our epistemic practices.16 Following Alvin Goldman's remark that “It is clear that our ordinary thought about process types slices them broadly” (346), I'll treat cognitive process types like wishful thinking and visual perception as appropriately broad.17 Trusting particular people and texts, meanwhile, are too narrow. Cognitive science may eventually help us better individuate cognitive process types for the purposes of reliability assessments and discover which processes produce which beliefs. Epistemic internalists might reject 3 as stated, claiming that it isn't widespread error that would justify giving up our beliefs, but our having reason to believe that there is widespread error. They might also claim that our justification for believing the outputs of some process depends not on its reliability, but on what we have reason to believe about its reliability. The argument will still go forward if 3 is modified to suit internalist tastes, changing its antecedent to “If we have reason to believe that there is widespread error about a topic” or changing its consequent to “we should retain only those beliefs about it that we have reason to believe were formed through reliable processes.” While 3's antecedent might itself seem unnecessary on the original formulation, it's required for 3 to remain plausible on the internalist modification. Requiring us to have reason to believe that any of our belief-formation processes are reliable before retaining their outputs might lead to skepticism. The antecedent limits the scope of the requirement to cases of widespread error, averting general skeptical conclusions. The argument will still attain its conclusion under these modifications. Successfully defending the premises of the argument and deriving widespread error (5) and unreliability (7) gives those of us who have heard the defense and derivation reason to believe 5 and 7. This allows us to derive 8. (Thus the pronoun 'we' in 3, 6, and 8.) 3 describes the right response to widespread error in many actual cases. Someone in the 12th century, especially upon hearing the disagreeing views of many cultures regarding the origins of the universe, would do well to recognize that error on this topic was widespread and retreat to agnosticism about it. Only when modern astrophysics extended reliable empirical methods to cosmology would it be rational to move forward from agnosticism and accept a particular account of how the universe began. Similarly, disagreement about which stocks will perform better than average is widespread among investors, suggesting that one's beliefs on the matter have a high likelihood of error. It's wise to remain agnostic about the stock market without an unusually reliable way of forming beliefs – for example, the sort of secret insider information that it's illegal to trade on. 3 permits us to hold onto our moral beliefs in individual cases of moral disagreement, suggesting skeptical conclusions only when moral disagreement is widespread. When we consider a single culture's abhorrent moral views, like the Greeks' acceptance of Telemachus and Odysseus' murders of the servant women, we don't think that maybe the Greeks were right to see nothing wrong and we should reconsider our outrage. Instead, we're horrified by their grave moral error. I think this is the right response. We're similarly horrified by the moral errors of Hindus who burned widows on their husbands' funeral pyres, American Southerners who supported slavery and segregation, our contemporaries who condemn homosexuality, and countless others. The sheer number of cases like this requires us to regard moral error as a pervasive feature of the human condition. Humans typically form moral beliefs through unreliable processes and have appendixes. We are humans, so this should reduce our confidence in our moral judgments. The prevalence of error in a world full of moral disagreement demonstrates how bad humans are at forming true moral beliefs, undermining our own moral beliefs. Knowing that unreliable processes so often lead humans to their moral beliefs, we'll require our moral beliefs to issue from reliable processes. 1.4 If there is widespread error about morality, there are no reliable processes for forming moral beliefs A reliable process for forming moral beliefs would avert skeptical conclusions. I'll consider several processes and argue that they don't help us escape moral skepticism. Ordinary moral intuition, whether it involves a special rational faculty or our emotional responses, is shown to be unreliable by the existence of widespread error. The argument from disagreement either prevents reflective equilibrium from generating moral conclusions or undermines it. Conceptual analysis is reliable, but delivers the wrong kind of knowledge to avert skepticism. If all our processes for forming moral beliefs are unreliable, moral skepticism looms. 4 is false only because of one process – phenomenal introspection, which lets us know of the goodness of pleasure, as the second half of this paper will discuss. Widespread error guarantees the unreliability of any process by which we form all or almost all of our moral beliefs. While widespread error allows some processes responsible for a small share of our moral beliefs to predominantly create true beliefs, it implies that any process generating a very large share of moral belief must be highly error-prone. Since the process produced so many of our moral beliefs, and so many of them are erroneous, it must be responsible for a large share of the error. If more of people's moral beliefs were true, things would be otherwise. Widespread truth would support the reliability of any process that produced most or all of our moral beliefs, since that process would be responsible for so much true belief. But given widespread error, ordinary moral intuition must be unreliable. This point provides a forceful response to Moorean opponents who insist that we can't give up the reliability of a process by which we form all or nearly all of our beliefs on an important topic, since this would permit counterintuitive skeptical conclusions. Even if this Moorean response helps against external world skeptics who employ counterfactual thought experiments involving brains in vats, it doesn't help against moral skeptics who use 1 and 2 to derive widespread actual error. Once we accept that widespread error actually obtains, a great deal of human moral knowledge has already vanished. Insisting on the reliability of the process then seems implausible and pointless. I'll briefly consider two conceptions of moral intuition – as a special rational faculty by which we grasp non-natural moral facts, and as a process by which our emotions lead us to form moral beliefs – and show how widespread error guarantees their unreliability. Some philosophers regard moral intuition as involving a special rational faculty that lets us know non-natural moral facts.18 They argue that knowledge on many topics including mathematics, logic, and modality involves this rational faculty, so moral knowledge might operate similarly. This suggests a way for them to defend the reliability of moral intuition in the face of widespread error: if intuition is reliable about these other things, its overall reliability across moral and nonmoral areas allows us to reliably form moral beliefs by using it. This defense won't work. When an epistemic process is manifestly unreliable on some topic, as widespread error shows any process responsible for most of our moral beliefs to be, the reliability of that process elsewhere won't save it on that topic. Even if testimony is reliable, this doesn't imply the reliability of compulsive gamblers' testimony about the next spin of the roulette wheel. Even if intuition remains reliable elsewhere, widespread disagreement still renders it unreliable in ethics. I see ordinary moral intuition as a process of emotional perception in which our feelings cause us to form moral beliefs.19 Just as visual experiences of color cause beliefs about the colors of surfaces, emotional experiences cause moral beliefs. Pleasant feelings like approval, admiration, or hope in considering actions, persons, or states of affairs lead us to believe they are right, virtuous or good. Unpleasant emotions like guilt, disgust, or horror in considering actions, persons, or states of affairs lead us to believe they are wrong, vicious, or bad. We might have regarded this as a reliable way to know about moral facts, just as visual perception is a reliable way to know about color, if not for widespread error. But because of widespread error, we can only see it as an unreliable process responsible for our dismal epistemic situation. Reflective equilibrium is the prevailing methodology in normative ethics today. It involves modifying our beliefs about particular cases and general principles to make them cohere. Whether or not nonmoral propositions like the premises of the argument from disagreement are admissible in reflective equilibrium, widespread error prevents reflective equilibrium from reliably generating a true moral theory, as I'll explain. If the premises of the argument from disagreement are admitted into reflective equilibrium, the argument can be reconstructed there, and reflective equilibrium will dictate that we give up all of our moral beliefs. To avoid this conclusion, the premises of the argument from disagreement would have to be revised away on moral grounds. These premises are a metaethical claim about the objectivity of morality which seems to be a conceptual truth, an anthropological claim about the existence of disagreement, a very general epistemic claim about when we should revise our beliefs, and a more empirically grounded epistemic claim about our processes of belief-formation and their reliability. While reflective equilibrium may move us to revise substantive moral beliefs in view of other substantive moral beliefs, claims of these other kinds are less amenable to such revision. Unless ambitious arguments for revising these nonmoral claims away succeed, we must follow the argument to its conclusion and accept that reflective equilibrium makes moral skeptics of us.20 If only moral principles and judgments are considered in reflective equilibrium, it won't make moral skeptics of us, but the argument from disagreement will undermine its conclusions. The argument forces us to give up the pre-existing moral beliefs against which we test various moral propositions in reflective equilibrium. While we may be justified in believing something because it coheres with our other beliefs, this justification goes away once we see that those beliefs should be abandoned. Coherence with beliefs that we know we should give up doesn't confer justification. Now I'll consider conceptual analysis. It can produce moral beliefs about conceptual truths – for example, that the moral supervenes on the nonmoral, and that morality is objective. It also may provide judgments about relations between different moral concepts – perhaps, that if the only moral difference between two actions is that one would produce morally better consequences than the other, doing what produces better consequences is right. I regard conceptual analysis as reliable, so that the argument from disagreement does not force us to give up the beliefs about morality it produces. Unfortunately, if analytic naturalism is false, as has been widely held in metaethics since G. E. Moore, conceptual analysis won't provide all the knowledge we need to build a normative ethical theory.21 Even when it relates moral concepts like goodness and rightness to each other, it doesn't tell us that anything is good or right to begin with. That's the knowledge we need to avoid moral skepticism. So far I've argued that our epistemic and anthropological situation, combined with plausible metaethical and epistemic principles, forces us to abandon our moral beliefs. But if a reliable process of moral belief-formation exists, 4 is false, and we can answer the moral skeptic. The rest of this paper discusses the only reliable process I know of. 2.1 Phenomenal introspection reveals pleasure's goodness Phenomenal introspection, a reliable way of forming true beliefs about our experiences, produces the belief that pleasure is good. Even as our other processes of moral belief-formation prove unreliable, it provides reliable access to pleasure's goodness, justifying the positive claims of hedonism. This section clarifies what phenomenal introspection and pleasure are and explains how phenomenal introspection provides reliable access to pleasure's value. Section 2.2 argues that pleasure's goodness is genuine moral value, rather than value of some other kind. In phenomenal introspection we consider our subjective experience, or phenomenology, and determine what it's like. Phenomenal introspection can be reliable while dreaming or hallucinating, as long as we can determine what the dreams or hallucinations are like. By itself, phenomenal introspection doesn't produce beliefs about things outside experience, or about relations between our experiences and non-experiential things. So it doesn't produce judgments about the rightness of actions or the goodness of non-experiential things. It can only tell us about the intrinsic properties of experience itself. Phenomenal introspection is generally reliable, even if mistakes about immediate experience are possible. Experience is rich in detail, so one could get some of the details wrong in belief. Under adverse conditions involving false expectations, misleading evidence about what one's experiences will be, or extreme emotional states that disrupt belief-formation, larger errors are possible. Paradigmatically reliable processes like vision share these failings. Vision sometimes produces false beliefs under adverse conditions, or when we're looking at complex things. Still, it's so reliable as to be indispensible in ordinary life. Regarding phenomenal introspection as unreliable is about as radical as skepticism about the reliability of vision. While contemporary psychologists reject introspection into one's motivations and other psychological causal processes as unreliable, phenomenal introspection fares better. Daniel Kahneman, for example, writes that “experienced utility is best measured by moment-based methods that assess the experience of the present.”22 Even those most skeptical about the reliability of phenomenal introspection, like Eric Schwitzgebel, concede that we can reliably introspect whether we are in serious pain.23 Then we should be able to introspectively determine what pain is like. So I'll assume the reliability of phenomenal introspection. One can form a variety of beliefs using phenomenal introspection. For example, one can believe that one is having sound experiences of particular noises and visual experiences of different shades of color. When looking at a lemon and considering the phenomenal states that are yellow experiences, one can form some beliefs about their intrinsic features – for example, that they're bright experiences. And when considering experiences of pleasure, one can make some judgments about their intrinsic features – for example, that they're good experiences. Just as one can look inward at one's experience of lemon yellow and recognize its brightness, one can look inward at one's experience of pleasure and recognize its goodness.24 When I consider a situation of increasing pleasure, I can form the belief that things are better than they were before, just as I form the belief that there's more brightness in my visual field as lemon yellow replaces black. And when I suddenly experience pain, I can form the belief that things are worse in my experience than they were before. Having pleasure consists in one's experience having a positive hedonic tone. Without descending into metaphor, it's hard to give a further account of what pleasure is like than to say that when one has it, one feels good. As Aaron Smuts writes in defending the view of pleasure as hedonic tone, “to 'feel good' is about as close to an experiential primitive as we get.” 25 Fred Feldman sees pleasure as fundamentally an attitude rather than a hedonic tone.26 But as long as hedonic tones are real components of experience, phenomenal introspection will reveal pleasure's goodness. Opponents of the hedonic tone account of pleasure usually concede that hedonic tones exist, as Feldman seems to in discussing “sensory pleasures,” which he thinks his view helps us understand. Even on his view of pleasure, phenomenal introspection can produce the belief that some hedonic tones are good while others are bad. There are many different kinds of pleasant experiences. There are sensory pleasures, like the pleasure of tasting delicious food, receiving a massage, or resting your tired limbs in a soft bed after a hard day. There are the pleasures of seeing that our desires are satisfied, like the pleasure of winning a game, getting a promotion, or seeing a friend succeed. These experiences differ in many ways, just as the experiences of looking at lemons and the sky on a sunny day differ. It's easy to see the appeal of Feldman's view that pleasures “have just about nothing in common phenomenologically” (79). But just as our experiences in looking at lemons and the sky on a sunny day have brightness in common, pleasant experiences all have “a certain common quality – feeling good,” as Roger Crisp argues (109).27 As the analogy with brightness suggests, hedonic tone is phenomenologically very thin, and usually mixed with a variety of other experiences.28 Pleasure of any kind feels good, and displeasure of any kind feels bad. These feelings may or may not have bodily location or be combined with other sensory states like warmth or pressure. “Pleasure” and “displeasure” mean these thin phenomenal states of feeling good and feeling bad. As Joseph Mendola writes, “the pleasantness of physical pleasure is a kind of hedonic value, a single homogenous sensory property, differing merely in intensity as well as in extent and duration, which is yet a kind of goodness” (442).29 What if Feldman is right and hedonic states feel good in fundamentally different ways? Then phenomenal introspection suggests a pluralist variety of hedonism. Each fundamental flavor of pleasure will have a fundamentally different kind of goodness, as phenomenal introspection more accurate than mine will reveal. This isn't my view, but I suggest it to those convinced that hedonic tones are fundamentally heterogenous. If phenomenal introspection reliably informs us that pleasure is good, how can anyone believe that their pleasures are bad? Other processes of moral belief-formation are responsible for these beliefs. Someone who feels disgust or guilt about sex may not only regard sex as immoral, but the pleasure it produces as bad. Even if phenomenal introspection on sexual pleasure disposes one to believe that it's good, stronger negative emotional responses to it may more strongly dispose one to believe that it's bad, following the emotional perception model suggested in section 1.4. Explaining disagreement about pleasure's value in terms of other processes lets hedonists maintain that phenomenal introspection univocally supports pleasure's goodness. As long as negative judgments of pleasure come from unreliable processes instead of phenomenal introspection, the argument from disagreement eliminates them. The parallel between yellow’s brightness and pleasure’s goodness demonstrates the objectivity of the value detected in phenomenal introspection. Just as anyone's yellow experiences objectively are bright experiences, anyone's pleasure objectively is a good experience.30 While one's phenomenology is often called one's “subjective experience”, facts about it are still objective. “Subjective” in “subjective experience” means “internal to the mind”, not “ontologically dependent on attitudes towards it.” My yellow-experiences objectively have brightness. Anyone who thought my yellow-experiences lacked brightness would be mistaken. Pleasure similarly is objectively good. It's true that anyone's pleasure is good. Anyone who denies this is mistaken. As Mendola writes, the value detected in phenomenal introspection is “a plausible candidate for objective value” (712). Even though phenomenal introspection only tells me about my own phenomenal states, I can know that others' pleasure is good. Of course, I can't phenomenally introspect their pleasures, just as I can't phenomenally introspect pleasures that I'll experience next year. But if I consider my experiences of lemon yellow and ask what it would be like if others had the same experiences, I must think that they would be having bright experiences. Similarly, if in a pleasant moment I consider what it's like for others to have exactly the experience I'm having, I must think that they're having good experiences. If they have exactly the same experiences I'm having, their experiences will have exactly the same intrinsic properties as mine. This is also how I know that if I have the same experience in the future, it'll have the same intrinsic properties. Even though the only pleasure I can introspect is mine now, I should believe that others' pleasures and my pleasures at other times are good, just as I should believe that yellow experienced by others and myself at other times is bright. My argument thus favors the kind of universal hedonism that supports utilitarianism, not egoistic hedonism.

### Adv 1 – Inequality

#### Prosecutors are disproportionately white; their use of plea bargaining kills POC’s trust in the CJS and perpetuates injustices

EJI 15 – EQUAL JUSTICE INITIATIVE (“DELAWARE’S ACCESS TO JUSTICE COMMISSION’S COMMITTEE ON FAIRNESS IN THE CRIMINAL JUSTICE SYSTEM” November 2015 https://courts.delaware.gov/supreme/docs/Delaware-Charging-Plea-Bargaining-Sentencing-Report.pdf) SJDI

As plea bargaining becomes increasingly common, prosecutors are becoming increasingly powerful. Prosecutors have many more resources than most defendants and defense attorneys. For example, law enforcement officials investigate the government’s cases.74 This means that prosecutors have entire police departments at their disposal. Moreover, prosecutors can use plea deals to entice witnesses to either provide information or testify against defendants. Prosecutors can offer defendants an ultimatum: plead guilty to reduced charges or go to trial and face more severe charges with harsher, often mandatory, penalties. For example, if the police raid a drug dealer’s house and find his girlfriend inside of it with drugs in her purse, the prosecutor on the case might offer to charge her only for the drugs in her purse in exchange for her guilty plea, testimony against her boyfriend, and a couple of years in prison. If she rejects that offer, the prosecutor will charge her with constructive possession of all of the drugs in the house, which could result in a mandatory minimum sentence of around 25 years. In a white-collar crime case, a prosecutor might charge the defendant with one count of wire fraud for all of the emails she sent if she pleads guilty, or twelve counts of wire fraud for each email she sent if she goes to trial.76 The prosecutor, as opposed to the judge, often decides the sentence. The proliferation of duplicative laws gives prosecutors the power to charge a single incident under several different statutes, thereby increasing their bargaining power with a defendant. Prosecutors generally decide whether to charge a crime as a misdemeanor or felony and whether add enhancements, such as the use of a firearm in the commission of the offense, or prior convictions.77 “In the course of plea negotiations, a prosecutor can agree to drop each time-adding allegation or threaten to add more serious charges if the defendant refuses to ‘take the deal.’”78 The prosecutor’s influence over who goes to trial and who pleads guilty, and how much time they serve in prison, is troubling in light of the fact that prosecutors do not represent the country demographically. Although white men make up only 31% of the population of the United States, they comprise 79% of the nation’s prosecutors.79Ninety-five percent of all prosecutors are white.80 The fact that prosecutors are so overwhelmingly white is especially disconcerting in light of the fact that prison populations in Delaware and throughout the country are disproportionately black and Latino. This stark contrast between prosecutors and defendants also perpetuates the lack of trust that many people of color have in the criminal justice system. As Melba V. Pearson, president of the National Black Prosecutor’s Association said about African-Americans’ mistrust of the criminal justice system: “[t]hey have to see someone that looks like them. When you walk into the courtroom and no one looks like you, do you think you are going to get a fair shake?” 81

#### Inequality drastically harms American soft power. Campbell 14

Campbell 14 – Kurt M. Campbell, chairman and chief executive of the Asia Group investment and consulting firm, was assistant secretary of state for East Asian and Pacific Affairs from 2009 to 2013. (“How income inequality harms U.S. power” ) LADI

Much has been written about the domestic consequences of growing income inequality in the United States — how inequality depresses growth, puts downward pressure on the middle class, accentuates wage stagnation and creates added difficulty paying for a college education and buying a home — but much less has been said about how inequality will affect America’s role in the world. How will the social science experiment of allowing wealth to settle so unequally between the top 1 percent and rest of the United States impact the foundations and contours of U.S. foreign policy? In fact, there are likely to be subtle and direct consequences of growing inequality both for the United States’ international standing and its activism. In most critical respects, the United States has helped to create and underwrite the global operating system since the end of World War II. This required a citizen’s sense of external responsibility and belief that the United States had something unique and valuable to confer to the world. Americans over these generations have regularly demonstrated in word and deed that they were prepared to bear burdens and advance ideas. Coinciding with this era was a general sense of overarching optimism that reinforced a post-World War II period of unprecedented American activism on the global scene. It is likely that as a growing segment of the population strains just to get by, it will increasingly view foreign policy — foreign assistance and military spending alike — as a kind of luxury ripe for cuts and a reduction in ambition. It is possible to see early indicators of these sentiments on the right and left, in the form of both tea party isolationism and Occupy Wall Street suspicion that corporate interests drive America’s foreign entanglements. It is also the case that other countries have long emulated aspects of the American Way in designing their own development models. Having access to higher education, creating conditions that support innovation and allowing for greater upward mobility have all been deeply attractive qualities to many nations. But it is the construction of a durable U.S. middle class that has been perhaps most compelling to highly stratified societies across Latin America, Asia and Africa. Now, however, the United States is moving in the other direction, toward an unstable society divided between astronomically rich elites and everyone else. This undermines a critical component of U.S. soft power and is a model for societal engineering that few would choose to emulate. It is also the case that the most recent era of U.S. exertion on the global stage has involved nearly 15 years of conflict in the Middle East and South Asia. The most important features of these largely military engagements have involved refinements in counterinsurgency technique and adaptations in military technology. A different 1 percent of the U.S. population has been primarily involved in this struggle: the U.S. military and others associated with the defense establishment. Aside from clapping when a uniformed military member greets an emotional family at an airport homecoming, the vast majority of the population has been largely unaffected by these conflicts. They neither paid for nor fought these wars. The next phase of intense global engagement is likely to demand much more from a larger share of the population. The lion’s share of 21st-century history will play out in Asia, with its thriving and acquisitive middle classes driving innovation, nationalist competitions, military ambitions, struggles over history and identity, and simple pursuit of power. The United States is in the midst of a major reorientation of its foreign policy and commercial priorities that will draw it more closely to Asia in the decades ahead. The competition for power and prestige there rests on comprehensive aspects of national power — as much to our product and service offerings, the strength of our educational system and the health and vitality of our national infrastructure as to the quality of U.S. military capabilities. Each of these efforts require substantial and sustained longer-term investments; all face funding shortfalls due to myriad challenges. A corresponding consequence of growing inequality has been a reduction in support for these building blocks for comprehensive and sustained international engagement. The worrisome dimensions of income inequality on the quality of domestic American life should be enough to cause us to consider enacting remedies. However, the potential negative implications on U.S. performance internationally can only add to the case. Ultimately, a sustained and purposeful American internationalism is inextricably linked to the health of our domestic life, to which gaping inequality is the biggest threat

#### Soft power is under threat -- Inequality causes and overwhelms the trump phenomenon. Lehman 16

Lehman 16 – Jean-Pierre Lehman is an Emeritus Professor at IMD, Lausanne (Switzerland), I founded The Evian Group in 1995, and currently Visiting Professor at Hong Kong University and at NIIT University in Neemrana, Rajasthan (India). (“The Collapse of US Soft Power – Global Impacts”, 4/28/16, ) LADI

Domestic Developments – Global Impacts

Much of what is happening in American politics – notably the Trump phenomenon – arises from domestic social forces and trends, in particular the rise of inequality. The so-called American middle class, which has seen its purchasing power dramatically drop over the course of the recent decade and with prospects for their children quite depressing, is angry. That is why the Trump populist bombast has been music to their ears. The fact that while the 1% have seen tremendous increase in income, and middle class incomes plummet and opportunities evaporate, punctures one of the most enduring myths of American soft power, that of rags to riches. Not only has inequality increased to chasm proportions, but also social mobility has atrophied; American society, contrary to both realities and perceptions from over a century, is now less mobile than Europe. It no longer appears as the great “land of opportunity”. The gridlock that has paralyzed American political decision making hardly provides an inspirational model of democracy. The political divide is profound and damaging – witness the difficulty of appointing a new judge to the Supreme Court, where opposition arises purely from political obstinacy and not due to the man’s character or capabilities. What is also revealed in the dismal spectacle of the current American presidential election is in fact how uneducated much of the American public appears to be. It has long been a puzzling contradiction of American society: how, on the one hand, it has the world’s best universities, the world’s best laboratories, the world’s best research institutes and think tanks, which account for much of the soft power behind the US’ position as magnet of the global brain drain, yet, on the other, so many citizens appear uneducated. As Trump triumphantly shouted in Nevada, “I love the poorly-educated”. Well, he would, would he not! American politics have never been particularly pristine. But what has constituted the worst show in town, the 2016 presidential election, surely is beyond belief. Of course, the US is not the only democracy affected by bombastic right-wing populism: Europe has been gripped by the cancer, notably Austria, the land of Adolf Hitler, where the extreme right has recently gained power. But none of these other countries matter much in the global scheme of things. The US is the US: the country that, as Joseph Nye put it is “bound to lead”. Prospects First, there is no substitute waiting on the sidelines to replace the US. China has hardly any soft power and current political developments are making the situation worse. Europe’s soft power eroded quite some time ago and has especially been tarnished by all the ugliness that has characterized the “refugee crisis”. It is the US that is bound to lead: no one else. The question is whether US soft power will rebound as it did on other seemingly desperate times: eg following the humiliation of the Vietnam War and the Watergate scandal in the 1970s; or following the declinism described above of the 1980s and early 1990s? In the spring of 2016 it is difficult to be optimistic. The global challenges that the US has failed to address are huge and will not go away. The kind of leadership, vision and general competence needed to do so do not appear on any visible horizon. But also what needs to be stressed is that as degradingly appalling the Trump spectacle may be, ultimately, whether he wins or not – and only a very unwise person would claim at this stage of the game that it is impossible – it is not so much what Donald Trump is that matters, but what he represents. He is a man of his times. Whoever becomes president will be willy-nilly forced to include a Trump tune in his/her script. Finally, what about the US as beacon of democracy? How about the perspective many of us (including this author) shared that the world would be better off the more democracies there are? Think about it. While Communist Party President Xi Jinping may not be everyone’s cup of tea, as I have written in an earlier article, what if we had a democratically elected Chinese President Trump???? With the collapse of American soft power, the world is in a vacuum. As Aristotle is alleged to have said: horror vacui – nature abhors a vacuum!

#### Soft power is an impact filter. Rieffel 05

Rieffel 05 –Brookings Institution, writing fellow [“REACHING OUT: AMERICANS SERVING OVERSEAS By Lex Rieffel Visiting Fellow The Brookings Institution” 1775 Massachusetts Avenue, NW Washington, DC 20036-2103 December 2005]LADI

The devastation of New Orleans by Hurricane Katrina at the end of August 2005 was another blow to American self-confidence as well as to its image in the rest of the world. It cracked the veneer of the society reflected in the American movies and TV programs that flood the world. It exposed weaknesses in government institutions that had been promoted for decades as models for other countries. Internal pressure to turn America’s back on the rest of the world is likely to intensify as the country focuses attention on domestic problems such as the growing number of Americans without health insurance, educational performance that is declining relative to other countries, deteriorating infrastructure, and increased dependence on foreign supplies of oil and gas. A more isolationist sentiment would reduce the ability of the USA to use its overwhelming military power to promote peaceful change in the developing countries that hold two-thirds of the world’s population and pose the gravest threats to global stability. Isolationism might heighten the sense of security in the short run, but it would put the USA at the mercy of external forces in the long run. Accordingly, one of the great challenges for the USA today is to build a broad coalition of like-minded nations and a set of international institutions capable of maintaining order and addressing global problems such as nuclear proliferation, epidemics like HIV/AIDS and avian flu, failed states like Somalia and Myanmar, and environmental degradation. The costs of acting alone or in small coalitions are now more clearly seen to be unsustainable. The limitations of “hard” instruments of foreign policy have been amply demonstrated in Iraq. Military power can dislodge a tyrant with great efficiency but cannot build stable and prosperous nations. Appropriately, the appointment of Karen Hughes as Under Secretary of State for Public Diplomacy and Public Affairs suggests that the Bush Administration is gearing up to rely more on “soft” instruments.2 The soft instruments of power can be thought of as including a vast array of public sector and private sector activities. They range from the government’s position in the international debate about global warming to the Fulbright program of academic exchanges to the behavior of American tourists overseas. For the purposes of this paper they are defined as the residual set of instruments after excluding hard instruments, with hard instruments being defined as all instruments involving any kind of armed military or police force.

### Adv 2 – Deportations

#### Under Sessions, prosecutors are pushing deportation through a plea deal to illegal immigrants. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

ATTORNEY GENERAL JEFF Sessions is pushing federal prosecutors to bypass immigration courts as part of the Trump administration’s hard-line strategy on deportation. Behind closed doors, prosecutors are pressing noncitizens to sign away their rights to make a case for remaining in the country. In the most dramatic cases, immigrants charged with crimes are signing plea agreements in which they promise they have “no present fear of torture” on returning to their home country. The pleas can block them from seeking asylum or protection from persecution. While plea agreements such as these are not entirely new — and are difficult to track — some defense attorneys who specialize in immigration fear they will become commonplace under Sessions. They’re also concerned prosecutors will push them for minor crimes that previously might not have led an immigration judge to order deportation. Immigration experts question the fairness of such provisions in plea agreements and even their overall constitutionality. Some say they might violate international treaties. Susan Church, an attorney who was one of the first to sue the government over President Donald Trump’s executive orders, said the leverage prosecutors hold at the plea-bargaining table heightens the risk of abuse. “Obviously I have seriously grave concerns about eliminating the small level of due process that’s afforded to immigrants in immigration court,” she said. “They absolutely should not be proposed as part of a plea agreement.” An examination of court records, memos from the Department of Justice, and other documents, as well as interviews with lawyers, suggest federal prosecutors are increasingly likely to demand plea bargains in which noncitizens sign away these due process rights. In one recent case in Massachusetts, the prosecutor said the provisions were “non-negotiable,” according to the defendant’s attorney. In a memo in April, Sessions directed all federal prosecutors to place higher priority on certain immigration offenses, including improper entry, illegal re-entry, and unlawful transportation of undocumented immigrants. He further instructed prosecutors, when possible, to seek “judicial orders of removal” that enable federal judges to order deportation without any hearing in immigration court. “I know many of you are already seeking these measures from District Courts,” Sessions wrote. “I ask that you continue this effort to achieve the results consistent with this guidance.” Three months later, in his regular bulletin to U.S. attorneys, Sessions invited attorneys from Immigration and Customs Enforcement to share tips on what they called a “game-changer”: Make deportation part of plea agreements offered to noncitizens charged with crimes. This “seldom used” strategy would “offer a powerful and efficient tool for prosecuting criminal aliens — one that provides enormous value to the Department of Homeland Security (DHS) and furthers new Department of Justice policy,” the how-to memo stated. It went on to list benefits, including using the waivers “as a bargaining chip to negotiate a plea with a defendant who is less interested in fighting removal than in litigating the prison sentence.” Michael Cohen, a former federal prosecutor who is now a criminal defense attorney in Florida and New York, said he had heard about the Justice Department’s new strategy but has yet to see it in action. He said he would be extremely hesitant to advise a client to sign such a waiver. However, Cohen said, an individual prosecutor might not have the same discretion in light of the administration’s directives. “You’re duty-bound to follow your office’s policies,” he said. “I understand that.” Devin O’Malley, a spokesperson for the Justice Department, said these types of plea agreements can “increase the efficiency of the immigration court system, save Americans’ tax dollars, and promote good government.” “This common-sense commitment to the rule of law will help reduce pressure on the immigration court pending caseload that has more than doubled since 2011,” O’Malley said in an email. While district offices declined to discuss plea waiver language, materials from a Senate Judiciary Committee hearing in 2008 pointed to how some prosecutors might be “hesitant to use it as a general practice.” The same report noted the rarity with which plea agreements had been used to order the deportation of immigrant defendants: 160 times between fiscal year 2002 and fiscal year 2008. In the same time period, ICE removed more than 1 million people, according to data analyzed by the Transactional Records Access Clearinghouse, run by Syracuse University. Donna Lee Elm, who is in charge of federal public defenders in the Middle District of Florida and an expert on plea bargain waivers, said the Justice Department’s new tactics are affecting many people who “actually should be entitled to be heard in immigration court.” “They’re using the hammer of threat of prosecution and a long prison sentence to give up the rights in an immigration case,” she said. Waiving a hearing in immigration court is not trivial. In the past five years, about 30 percent of noncitizens charged with crimes have succeeded in convincing an immigration judge to let them stay in the country, according to TRAC data. Elm said some of the plea agreements likely are violating decades-old international treaties, in which the federal government vowed to enable people to seek asylum in this country. “You can’t waive that — it’s not like waiving the right to trial,” she said. “They just didn’t think these through.”

#### Deportation triggers massive economic downturn and tanks GDP – flag this card, it’s an industry and state level analysis. Edwards and Ortega 16

Edwards, Ryan, and Francesc Ortega. “The Economic Impacts of Removing Unauthorized Immigrant Workers.” Center for American Progress, Center for American Progress, 21 Sept. 2016, 3:00 AM, www.americanprogress.org/issues/immigration/reports/2016/09/21/144363/the-economic-impacts-of-removing-unauthorized-immigrant-workers/. Ryan D. Edwards is associate professor of economics at Queens College in the City University of New York. Francesc Ortega is Dina Axelrad Perry associate professor in economics at Queens College in the City University of New York. //nhs-VA

In every state and in every industry across the United States, immigrants—authorized and unauthorized—are contributing to the U.S. economy. Immigrant labor and entrepreneurship are believed to be powerful forces of economic revitalization for communities struggling with population decline. Estimates suggest that the total number of unauthorized immigrants currently residing in the United States is approximately 11.3 million, or about 3.5 percent of the total 2015 resident population of 324.4 million. Of those 11.3 million, we estimate that 7 million are workers. What is the economic contribution of these unauthorized workers? What would the nation stand to lose in terms of production and income if these workers were removed and returned to their home countries? The main findings of this report are as follows: A policy of mass deportation would immediately reduce the nation’s GDP by 1.4 percent, and ultimately by 2.6 percent, and reduce cumulative GDP over 10 years by $4.7 trillion**.** Because capital will adjust downward to a reduction in labor—for example, farmers will scrap or sell excess equipment per remaining worker—the long-run effects are larger and amount to two-thirds of the decline experienced during the Great Recession. Removing 7 million unauthorized workers would reduce national employment by an amount similar to that experienced during the Great Recession. Massdeportation would cost the federal government nearly $900 billion in lost revenue over 10 years**.** Federal government revenues are roughly proportional to GDP, while federal spending is less responsive. A conservative estimate suggests that annual revenue losses would start at $50 billion and accumulate to $860 billion over a 10-year period. With associated increases in interest payments, removal\* would thus raise the federal debt by $982 billion by 2026 and increase the debt-to-GDP ratio, a common measure of fiscal sustainability, by 6 percentage points over the same time period. Unsustainably high levels of the debt-to-GDP ratio may ultimately raise interest rates and choke off economic growth. Hard-hit industries would see double-digit reductions in their workforces. Unauthorized workers are unevenly spread across industries, with the highest concentrations employed in agriculture, construction, and leisure and hospitality. Those three industries would be hit hardest by a removal policy, experiencing workforce reductions of 10 percent to 18 percent, or more. Other industries would also experience reductions in output due to a mass deportation policy. The largest declines in GDP would occur in the largest industries, not in immigrant-heavy industries**.** Because industries also vary in size, the losses in value added to the national GDP stemming from removal occur across many industries that are not usually associated with unauthorized labor. The three largest U.S. industries in terms of value added are financial activities, manufacturing, and wholesale and retail trade. Annual long-run GDP losses in those industries would reach $54.3 billion, $73.8 billion, and $64.9 billion, respectively, the three largest effects among the 12 private-sector industries. States with the most unauthorized workers will experience the largest declines in state GDP. We estimate that GDP in California, for example, will ultimately fall by $103 billion annually—or roughly a 5 percent drop—if mass deportation occurs. Large declines will also occur in other states such as Texas, New York, and New Jersey, with the effects spread across industries.

#### Slowing growth causes conflict – this is specifically true under Trump. Foster 16

Foster 12/16 - Dennis M. Foster is professor of international studies and political science at the Virginia Military Institute. “Would President Trump go to war to divert attention from problems at home?” December 19, 2016, Washington Post Monkey Cage Blog, https://www.washingtonpost.com/news/monkey-cage/wp/2016/12/19/yes-trump-might-well-go-to-war-to-divert-attention-from-problems-at-home/?utm\_term=.9ac2999a0f48) LADI

Then-Republican presidential candidate Donald Trump gives a speech aboard the World War II battleship USS Iowa in San Pedro, Calif., in September, 2015. (Robyn Beck/AFP/Getty Images) If the U.S. economy tanks, should we expect Donald Trump to engage in a diversionary war? Since the age of Machiavelli, analysts have expected world leaders to launch international conflicts to deflect popular attention away from problems at home. By stirring up feelings of patriotism, leaders might escape the political costs of scandal, unpopularity — or a poorly performing economy. One often-cited example of diversionary war in modern times is Argentina’s 1982 invasion of the Falklands, which several (though not all) political scientists attribute to the junta’s desire to divert the people’s attention from a disastrous economy. In a 2014 article, Jonathan Keller and I argued that whether U.S. presidents engage in diversionary conflicts depends in part on their psychological traits — how they frame the world, process information and develop plans of action. Certain traits predispose leaders to more belligerent behavior. Do words translate into foreign policy action? One way to identify these traits is content analyses of leaders’ rhetoric. The more leaders use certain types of verbal constructs, the more likely they are to possess traits that lead them to use military force. [Trump may put 5 former top military brass in his administration. That’s unprecedented.] For one, conceptually simplistic leaders view the world in “black and white” terms; they develop unsophisticated solutions to problems and are largely insensitive to risks. Similarly, distrustful leaders tend to exaggerate threats and rely on aggression to deal with threats. Distrustful leaders typically favor military action and are confident in their ability to wield it effectively. Thus, when faced with politically damaging problems that are hard to solve — such as a faltering economy — leaders who are both distrustful and simplistic are less likely to put together complex, direct responses. Instead, they develop simplistic but risky “solutions” that divert popular attention from the problem, utilizing the tools with which they are most comfortable and confident (military force). [Will Beijing cut Trump some slack after that phone call with Taiwan?] Based on our analysis of the rhetoric of previous U.S. presidents, we found that presidents whose language appeared more simplistic and distrustful, such as Harry Truman, Dwight Eisenhower and George W. Bush, were more likely to use force abroad in times of rising inflation and unemployment. By contrast, John F. Kennedy and Bill Clinton, whose rhetoric pegged them as more complex and trusting, were less likely to do so. What about Donald Trump? Since Donald Trump’s election, many commentators have expressed concern about how he will react to new challenges and whether he might make quick recourse to military action. For example, the Guardian’s George Monbiot has argued that political realities will stymie Trump’s agenda, especially his promises regarding the economy. Then, rather than risk disappointing his base, Trump might try to rally public opinion to his side via military action. I sampled Trump’s campaign rhetoric, analyzing 71,446 words across 24 events from January 2015 to December 2016. Using a program for measuring leadership traits in rhetoric, I estimated what Trump’s words may tell us about his level of distrust and conceptual complexity. The graph below shows Trump’s level of distrust compared to previous presidents. These results are startling. Nearly 35 percent of Trump’s references to outside groups paint them as harmful to himself, his allies and friends, and causes that are important to him — a percentage almost twice the previous high. The data suggest that Americans have elected a leader who, if his campaign rhetoric is any indication, will be historically unparalleled among modern presidents in his active suspicion of those unlike himself and his inner circle, and those who disagree with his goals. As a candidate, Trump also scored second-lowest among presidents in conceptual complexity. Compared to earlier presidents, he used more words and phrases that indicate less willingness to see multiple dimensions or ambiguities in the decision-making environment. These include words and phrases like “absolutely,” “greatest” and “without a doubt.” A possible implication for military action I took these data on Trump and plugged them into the statistical model that we developed to predict major uses of force by the United States from 1953 to 2000. For a president of average distrust and conceptual complexity, an economic downturn only weakly predicts an increase in the use of force. But the model would predict that a president with Trump’s numbers would respond to even a minor economic downturn with an increase in the use of force. For example, were the misery index (aggregate inflation and unemployment) equal to 12 — about where it stood in October 2011 — the model predicts a president with Trump’s psychological traits would initiate more than one major conflict per quarter.

### Plan

#### Resolved: Plea bargaining in misdemeanor cases ought to be abolished in the United States criminal justice system for noncitizen defendants.

#### Here’s a solvency advocate – Elm et al 9/22

Elm, Donna Lee and Klein, Susan R. and Steglich, Elissa, Immigration Defense Waivers in Federal Criminal Plea Agreements (September 22, 2017). Mercer Law Review Forthcoming; U of Texas Law, Public Law Research Paper No. 679. Available at SSRN: https://ssrn.com/abstract=3046713 //nhs-VA

This article focuses on DOJ’s inclusion of waivers of immigration relief in plea agreements for noncitizen federal defendants, and proposes some challenges to these waivers. Federal district and appellate judges, immigration judges, and the Board of Immigration Appeals (“BIA”) members will find below legal grounds to decline to accept these waivers. Such tools are critical to combat this new federal immigration waiver propensity – which is especially disturbing in light of AG Sessions’ April 11, 2017 Memorandum requiring federal prosecutors to substantially broaden immigration prosecutions, and that limits discretion on whom not to deport. The government seeks waivers of critical rights without giving noncitizen defendants access to the tools and knowledge to make fully informed decisions. In Part I, we review the language of immigration waivers, widely varying by jurisdiction, and include an appended chart tracking waivers from each U.S. Attorney's Office that presently requests waivers as part of their standard plea agreements. In Part II, we briefly describe how removal orders are imposed by immigration judges (“IJs”), Department of Homeland Security (“DHS”) officers, and by federal district court judges, and describe the effect these waivers will have in those proceedings. We also include a discussion of the potential grounds of relief from removal such as asylum, withholding of removal, and protection under the Convention Against Torture in conjunction with challenging the grounds for the deportation. Finally, we spend some time on renewed use of a 1994 judicial removal statute, 18 U.S.C. § 1228. In Part III, we identify five methods for challenging these waivers. We first urge immigrants to demand hearings and to challenge the factual statements contained in the plea waivers. Next, we question the constitutionality of the judicial removal statute. Moving on, we suggest that defense attorneys who advise clients to sign these waivers may be providing ineffective assistance of counsel. Finally, we argue that public policy and international law obligations may prohibit enforcement of these waivers.

## 1AC – Modules

### Plan

#### Resolved: Plea bargaining ought to be abolished in the United States immigration court.

### Plan

#### Resolved: In the United States criminal justice system, plea bargaining ought to be abolished in cases where deportation is offered as the plea deal to noncitizen defendants.

### Plan

#### Resolved: Plea bargaining in misdemeanor cases ought to be abolished in the United States criminal justice system for noncitizen defendants.

### UV – Framework (:45)

#### Psychological evidence proves we don’t identify with our future selves. Continuous personal identity doesn’t exist.

Opar 14 [(Alisa Opar is the articles editor at Audubon magazine; cites Hal Hershfield, an assistant professor at New York University’s Stern School of Business; and Emily Pronin, a psychologist at Princeton) “Why We Procrastinate” Nautilus January 2014] AT

The British philosopher Derek Parfit espoused a severely reductionist view of personal identity in his seminal book, Reasons and Persons: It does not exist, at least not in the way we usually consider it. We humans, Parfit argued, are not a consistent identity moving through time, but a chain of successive selves, each tangentially linked to, and yet distinct from, the previous and subsequent ones. The boy who begins to smoke despite knowing that he may suffer from the habit decades later should not be judged harshly: “This boy does not identify with his future self,” Parfit wrote. “His attitude towards this future self is in some ways like his attitude to other people.” Parfit’s view was controversial even among philosophers. But psychologists are beginning to understand that it may accurately describe our attitudes towards our own decision-making: It turns out that we see our future selves as strangers. Though we will inevitably share their fates, the people we will become in a decade, quarter century, or more, are unknown to us. This impedes our ability to make good choices on their—which of course is our own—behalf. That bright, shiny New Year’s resolution? If you feel perfectly justified in breaking it, it may be because it feels like it was a promise someone else made. “It’s kind of a weird notion,” says Hal Hershfield, an assistant professor at New York University’s Stern School of Business. “On a psychological and emotional level we really consider that future self as if it’s another person.” Using fMRI, Hershfield and colleagues studied brain activity changes when people imagine their future and consider their present. They homed in on two areas of the brain called the medial prefrontal cortex and the rostral anterior cingulate cortex, which are more active when a subject thinks about himself than when he thinks of someone else. They found these same areas were more strongly activated when subjects thought of themselves today, than of themselves in the future. Their future self “felt” like somebody else. In fact, their neural activity when they described themselves in a decade was similar to that when they described Matt Damon or Natalie Portman. And subjects whose brain activity changed the most when they spoke about their future selves were the least likely to favor large long-term financial gains over small immediate ones. Emily Pronin, a psychologist at Princeton, has come to similar conclusions in her research. In a 2008 study, Pronin and her team told college students that they were taking part in an experiment on disgust that required drinking a concoction made of ketchup and soy sauce. The more they, their future selves, or other students consumed, they were told, the greater the benefit to science. Students who were told they’d have to down the distasteful quaff that day committed to consuming two tablespoons. But those that were committing their future selves (the following semester) or other students to participate agreed to guzzle an average of half a cup. We think of our future selves, says Pronin, like we think of others: in the third person. The disconnect between our present and time-shifted selves has real implications for how we make decisions. We might choose to procrastinate, and let some other version of our self deal with problems or chores. Or, as in the case of Parfit’s smoking boy, we can focus on that version of our self that derives pleasure, and ignore the one that pays the price. But if procrastination or irresponsibility can derive from a poor connection to your future self, strengthening this connection may prove to be an effective remedy. This is exactly the tactic that some researchers are taking. Anne Wilson, a psychologist at Wilfrid Laurier University in Canada, has manipulated people’s perception of time by presenting participants with timelines scaled to make an upcoming event, such as a paper due date, seem either very close or far off. “Using a longer timeline makes people feel more connected to their future selves,” says Wilson. That, in turn, spurred students to finish their assignment earlier, saving their end-of-semester self the stress of banging it out at the last minute. We think of our future selves, says Pronin, like we think of others: in the third person. Hershfield has taken a more high-tech approach. Inspired by the use of images to spur charitable donations, he and colleagues took subjects into a virtual reality room and asked them to look into a mirror. The subjects saw either their current self, or a digitally aged image of themselves (see the figure, Digital Old Age). When they exited the room, they were asked how they’d spend $1,000. Those exposed to the aged photo said they’d put twice as much into a retirement account as those who saw themselves unaged. This might be important news for parts of the finance industry. Insurance giant Allianz is funding a pilot project in the midwest in which Hershfield’s team will show state employees their aged faces when they make pension allocations. Merrill Edge, the online discount unit of Bank of America Merrill Lynch, has taken this approach online, with a service called Face Retirement. Each decade-jumping image is accompanied by startling cost-of-living projections and suggestions to invest in your golden years. Hershfield is currently investigating whether morphed images can help people lose weight. Of course, the way we treat our future self is not necessarily negative: Since we think of our future self as someone else, our own decision making reflects how we treat other people. Where Parfit’s smoking boy endangers the health of his future self with nary a thought, others might act differently. “The thing is, we make sacrifices for people all the time,” says Hershfield. “In relationships, in marriages.” The silver lining of our dissociation from our future self, then, is that it is another reason to practice being good to others. One of them might be you.

This proves util –

a. If a person isn’t a continuous unit, it doesn’t matter how goods are distributed among people, which supports util since util only maximizes benefits, ignoring distribution across people.

b. Other theories assume identity matters. Util’s the only possible theory if identity is irrelevant.

#### All standards must have link turn ground for both sides. Libertarianism violates because in order to turn it with positive obligations, I have to win util offense.

1. reciprocity – the negative can either win fwk or turn the aff, while I have to do both in order to win. Even if you don’t turn case, it still allows you to skew my time by eliminating 4 minutes of aff offense.
2. topic education – if standards can’t be turned we never talk about them in the context of the topic, which o/w because topical education is more diverse.

### UV – Structural Violence (:35)

#### Their frameworks start from the position of equal access which is not actually met, obligating us to correct injustice. Bruenig 14

Bruenig 14 [(Matt, cites political theorist Charles Mills) “Charles Mills on White Liberalism”] LADI

One such methodological assumption, Mills argues, is the assumption that the proper way to philosophize about political justice is through the use of "ideal theory." Under an ideal theory approach to theorizing about politics, the requirements of justice are derived by imagining how best to construct a system from scratch at the beginning of history. You see this ideal theory approach present in theorizing about the "state of nature," the "veil of ignorance", and the "original position" more generally. In all cases, you essentially construct an ideal society at the beginning of time and then use that ideal society to determine the justness of institutions in actually-existing societies and to prescribe ways to make those societies more just. The decision to use ideal theory to ferret out the requirements of justice is not, according to Mills, a neutral one. Instead, it is one that tracks the justice concerns of the white philosophers who comprise the tradition that continues to this day to rely on this method. For white philosophers, expository devices that operationally exclude all of history pose no particular problem. History is largely irrelevant to the kinds of justice concerns that press upon white populations. To the extent that it is relevant, it's only marginally so and therefore easily relegated to an after-the-fact special consideration that is separate from the core theories. This is not the case for non-whites as the ghosts of historical injustices heavily factor into their present justice needs. For these populations, the issues of rectificatory and reparative justice are not secondary issues best treated as footnoted exceptions. Rather, they are center stage. Whereas white philosophers operating in the racially-exclusionary liberal tradition find it most fitting to start with ideal theory and then move on to non-ideal historical problems as a side issue, a less racially-biased philosophical tradition would go in the reverse order. Abstract thought experiments that walled off history (as in ideal theory) would at minimum be replaced with ones that fully included history into their considerations. Instead of asking, as in Rawls, what kind of political institutions people would select at the beginning of time if they didn't know who in that society they'd wind up being, you would ask what kind of institutions those same people would select if they knew the society they would blindly enter into has a legacy of racist oppression that has set the stage for lasting racial disparities. That the liberal tradition continues to select the ideal theory approach to contemplating justice, even as it marginalizes the justice concerns of non-white people, is, according to Mill, a legacy of its racist origins and the philosophical methodologies those origins set in place.

#### Structural violence outweighs nuclear war and “behavioral violence.” Abu-Jamal 98

Abu-Jamal, Mumia. "A Quiet and Deadly Violence." Writings by Mumia Abu-Jamal. Angelfire, 19 Sept. 1998. Web. 20 June 2017. <http://www.angelfire.com/az/catchphraze/mumiaswords.html#quiet>.//nhs-VA

\*Brackets in original

It has often been observed that America is a truly violent nation, as shown by the thousands of cases of social and communal violence that occurs daily in the nation. Every year, some 20,000 people are killed by others, and additional 20,000 folks kill themselves. Add to this the nonlethal violence that Americans daily inflict on each other, and we begin to see the tracings of a nation immersed in a fever of violence. But, as remarkable, and harrowing as this level and degree of violence is, it is, by far, not the most violent features of living in the midst of the American empire. We live, equally immersed, and to a deeper degree, in a nation that condones and ignores wide-ranging "structural' violence, of a kind that destroys human life with a breathtaking ruthlessness. Former Massachusetts prison official and writer, Dr. James Gilligan observes; By "structural violence" I mean the increased rates of death and disability suffered by those who occupy the bottom rungs of society, as contrasted by those who are above them. Those excess deaths (or at least a demonstrably large proportion of them) are a function of the class structure; and that structure is itself a product of society's collective human choices, concerning how to distribute the collective wealth of the society. These are not acts of God. I am contrasting "structural" with "behavioral violence" by which I mean the non-natural deaths and injuries that are caused by specific behavioral actions of individuals against individuals, such as the deaths we attribute to homicide, suicide, soldiers in warfare, capital punishment, and so on. --(Gilligan, J., MD, Violence: Reflections On a National Epidemic (New York: Vintage, 1996), 192.) This form of violence, not covered by any of the majoritarian, corporate, ruling-class protected media, is invisible to us and because of its invisibility, all the more insidious. How dangerous is it--really? Gilligan notes: [E]very fifteen years, on the average, as many people die because of relative poverty as would be killed in a nuclear war that caused 232 million deaths; and every single year, two to three times as many people die from poverty throughout the world as were killed by the Nazi genocide of the Jews over a six-year period. This is, in effect, the equivalent of an ongoing, unending, in fact accelerating, thermonuclear war, or genocide on the weak and poor every year of every decade, throughout the world. [Gilligan, p. 196] Worse still, in a thoroughly capitalist society, much of that violence became internalized, turned back on the Self, because, in a society based on the priority of wealth, those who own nothing are taught to loathe themselves, as if something is inherently wrong with themselves, instead of the social order that promotes this self-loathing. This intense self-hatred was often manifested in familial violence as when the husband beats the wife, the wife smacks the son, and the kids fight each other. This vicious, circular, and invisible violence, unacknowledged by the corporate media, uncriticized in substandard educational systems, and un- understood by the very folks who suffer in its grips, feeds on the spectacular and more common forms of violence that the system makes damn sure -that we can recognize and must react to it. This fatal and systematic violence may be called The War on the Poor. It is found in every country, submerged beneath the sands of history, buried, yet ever present, as omnipotent as death. In the struggles over the commons in Europe, when the peasants struggled and lost their battles for their commonal lands (a precursor to similar struggles throughout Africa and the Americas), this violence was sanctified, by church and crown, as the 'Divine Right of Kings' to the spoils of class battle. Scholars Frances Fox-Piven and Richard A Cloward wrote, in The New Class War (Pantheon, 1982/1985): They did not lose because landowners were immune to burning and preaching and rioting. They lost because the usurpations of owners were regularly defended by the legal authority and the armed force of the state. It was the state that imposed increased taxes or enforced the payment of increased rents, and evicted or jailed those who could not pay the resulting debts. It was the state that made lawful the appropriation by landowners of the forests, streams, and commons, and imposed terrifying penalties on those who persisted in claiming the old rights to these resources. It was the state that freed serfs or emancipated sharecroppers only to leave them landless. (52) The "Law", then, was a tool of the powerful to protect their interests, then, as now. It was a weapon against the poor and impoverished, then, as now. It punished retail violence, while turning a blind eye to the wholesale violence daily done by their class masters. The law was, and is, a tool of state power, utilized to protect the status quo, no matter how oppressive that status was, or is. Systems are essentially ways of doing things that have concretized into tradition, and custom, without regard to the rightness of those ways. No system that causes this kind of harm to people should be allowed to remain, based solely upon its time in existence. Systems must serve life, or be discarded as a threat and a danger to life. Such systems must pass away, so that their great and terrible violence passes away with them.

#### Prefer probability calculus—cognitive bias and the conjunctive fallacy means that their extinction scenarios are improbable and inaccurate abstract securitization.

Yudkowsky 06 – cites Bruce Schneier, a security expert – Eliezer Yudkowsky, 8/31/2006, Singularity Institute for Artificial Intelligence Palo Alto, CA. “Cognitive biases potentially affecting judgment of global risks,” Forthcoming in Global Catastrophic Risks, eds. Nick Bostrom and Milan Cirkovic, singinst.org/upload/cognitive-biases.pdf.

**The conjunction fallacy similarly applies to futurological forecasts**. Two independent sets of professional analysts at the Second International Congress on Forecasting were asked to rate, respectively, the probability of "A complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983" or "A Russian invasion of Poland, and a complete suspension of diplomatic relations between the USA and the Soviet Union, sometime in 1983". The second set of analysts responded with significantly higher probabilities. (Tversky and Kahneman 1983.) In Johnson et. al. (1993), MBA students at Wharton were scheduled to travel to Bangkok as part of their degree program. Several groups of students were asked how much they - 6 - were willing to pay for terrorism insurance. One group of subjects was asked how much they were willing to pay for terrorism insurance covering the flight from Thailand to the US. A second group of subjects was asked how much they were willing to pay for terrorism insurance covering the round-trip flight. A third group was asked how much they were willing to pay for terrorism insurance that covered the complete trip to Thailand. These three groups responded with average willingness to pay of $17.19, $13.90, and $7.44 respectively. **According to probability theory, adding additional detail onto a story must render the story less probable. It is less probable that Linda is a feminist bank teller than that she is a bank teller, since all feminist bank tellers are necessarily bank tellers. Yet human psychology seems to follow the rule that adding an additional detail can make the story more plausible. People might pay more for international diplomacy intended to prevent nanotechnological warfare by China, than for an engineering project to defend against nanotechnological attack from any source. The second threat scenario is less vivid and alarming, but the defense is more useful because it is more vague. More valuable still would be strategies which make humanity harder to extinguish without being specific to nanotechnologic threats - such as colonizing space, or see Yudkowsky (this volume) on AI. Security expert Bruce Schneier observed** (both before and after the 2005 hurricane in New Orleans) **that the U.S. government was guarding specific domestic targets against "movie-plot scenarios" of terrorism, at the cost of taking away resources from emergency-response capabilities that could respond to any disaster.** (Schneier 2005.) **Overly detailed reassurances can also create false perceptions of safety**: "X is not an existential risk and you don't need to worry about it, because A, B, C, D, and E"; where the failure of any one of propositions A, B, C, D, or E potentially extinguishes the human species. "**We don't need to worry about nanotechnologic war, because a UN commission will initially develop the technology and prevent its proliferation until such time as an active shield is developed, capable of defending against all accidental and malicious outbreaks that contemporary nanotechnology is capable of producing, and this condition will persist indefinitely." Vivid, specific scenarios can inflate our probability estimates of security, as well as misdirecting defensive investments into needlessly narrow or implausibly detailed risk scenarios. More generally, people tend to overestimate conjunctive probabilities and underestimate disjunctive probabilities. (Tversky and Kahneman 1974.) That is, people tend to overestimate the probability that, e.g., seven events of 90% probability will all occur. Conversely, people tend to underestimate the probability that at least one of seven events of 10% probability will occur**. Someone judging whether to, e.g., incorporate a new startup, must evaluate the probability that many individual events will all go right (there will be sufficient funding, competent employees, customers will want the product) while also considering the likelihood that at least one critical failure will occur (the bank refuses - 7 - a loan, the biggest project fails, the lead scientist dies). This may help explain why only 44% of entrepreneurial ventures3 survive after 4 years. (Knaup 2005.) Dawes (1988) observes: 'In their summations lawyers avoid arguing from disjunctions ("either this or that or the other could have occurred, all of which would lead to the same conclusion") in favor of conjunctions. **Rationally, of course, disjunctions are much more probable than are conjunctions.' The scenario of humanity going extinct in the next century is a disjunctive event. It could happen as a result of any of the existential risks discussed in this book - or some other cause which none of us foresaw.** Yet for a futurist, disjunctions make for an awkward and unpoetic-sounding prophecy.

#### Because extinction always outweighs structural violence—you should assume 0% risk of internal links, not 100% because they have the burden of proof—long internal links, unmentioned assumptions, and the uncertainty or predictions means there’s 0% risk of DA impacts.

Cohn 13 (Nate, “Improving the Norms and Practices of Policy Debate,” CEDADebate.org, College Policy Debate Forums, November 24, 2013, http://www.cedadebate.org/forum/index.php?topic=5416.0;wap2)

There were other problems. Many of the small affirmatives were unstrategic—teams rarely had solvency deficits to generic counterplans. It was already basically impossible to win that some morality argument outweighed extinction; it was totally untenable to win that a moral obligation outweighed a meaningful risk of extinction; it made even less sense if the counterplan solved most of the morality argument. The combined effect was devastating: As these debates are currently argued and judged, I suspect that the negative would win my ballot more than 95 percent of the time in a debate between two teams of equal ability. But even if a “soft left” team did better—especially by making solvency deficits and responding to the specifics of the disadvantage—I still think they would struggle. They could compete at the highest levels, but, in most debates, judges would still assess a small, but meaningful risk of a large scale conflict, including nuclear war and extinction. The risk would be small, but the “magnitude” of the impact would often be enough to outweigh a higher probability, smaller impact . Or put differently: policy debate still wouldn’t be replicating a real world policy assessment, teams reading small affirmatives would still be at a real disadvantage with respect to reality. . Why? Oddly, this is the unreasonable result of a reasonable part of debate: the burden of refutation or rejoinder, the responsibility of debaters to “beat” arguments. If I introduce an argument, it starts out at 100 percent—you then have to disprove it. That sounds like a pretty good idea in principle, right? Well, I think so too. But it’s really tough to refute something down to “zero” percent—a team would need to completely and totally refute an argument. That’s obviously tough to do, especially since the other team is usually going to have some decent arguments and pretty good cards defending each component of their disadvantage—even the ridiculous parts. So one of the most fundamental assumptions about debate all but ensures a meaningful risk of nearly any argument—even extremely low-probability, high magnitude impacts, sufficient to outweigh systemic impacts. There’s another even more subtle element of debate practice at play. Traditionally, the 2AC might introduce 8 or 9 cards against a disadvantage, like “non-unique, no-link, no-impact,” and then go for one and two. Yet in reality, disadvantages are underpinned by dozens or perhaps hundreds of discrete assumptions, each of which could be contested. By the end of the 2AR, only a handful are under scrutiny; the majority of the disadvantage is conceded, and it’s tough to bring the one or two scrutinized components down to “zero.” And then there’s a bad understanding of probability. If the affirmative questions four or five elements of the disadvantage, but the negative was still “clearly ahead” on all five elements, most judges would assess that the negative was “clearly ahead” on the disadvantage. In reality, the risk of the disadvantage has been reduced considerably. If there was, say, an 80 percent chance that immigration reform would pass, an 80 percent chance that political capital was key, an 80 percent chance that the plan drained a sufficient amount of capital, an 80 percent chance that immigration reform was necessary to prevent another recession, and an 80 percent chance that another recession would cause a nuclear war (lol), then there’s a 32 percent chance that the disadvantage caused nuclear war. I think these issues can be overcome. First, I think teams can deal with the “burden of refutation” by focusing on the “burden of proof,” which allows a team to mitigate an argument before directly contradicting its content. Here’s how I’d look at it: modern policy debate has assumed that arguments start out at “100 percent” until directly refuted. But few, if any, arguments are supported by evidence consistent with “100 percent.” Most cards don’t make definitive claims. Even when they do, they’re not supported by definitive evidence—and any reasonable person should assume there’s at least some uncertainty on matters other than few true facts, like 2+2=4. Take Georgetown’s immigration uniqueness evidence from Harvard. It says there “may be a window” for immigration. So, based on the negative’s evidence, what are the odds that immigration reform will pass? Far less than 50 percent, if you ask me. That’s not always true for every card in the 1NC, but sometimes it’s even worse—like the impact card, which is usually a long string of “coulds.” If you apply this very basic level of analysis to each element of a disadvantage, and correctly explain math (.4\*.4\*.4\*.4\*.4=.01024), the risk of the disadvantage starts at a very low level, even before the affirmative offers a direct response. Debaters should also argue that the negative hasn’t introduced any evidence at all to defend a long list of unmentioned elements in the “internal link chain.” The absence of evidence to defend the argument that, say, “recession causes depression,” may not eliminate the disadvantage, but it does raise uncertainty—and it doesn’t take too many additional sources of uncertainty to reduce the probability of the disadvantage to effectively zero—sort of the static, background noise of prediction. Now, I do think it would be nice if a good debate team would actually do the work—talk about what the cards say, talk about the unmentioned steps—but I think debaters can make these observations at a meta-level (your evidence isn’t certain, lots of undefended elements) and successfully reduce the risk of a nuclear war or extinction to something indistinguishable from zero. It would not be a factor in my decision. Based on my conversations with other policy judges, it may be possible to pull it off with even less work. They might be willing to summarily disregard “absurd” arguments, like politics disadvantages, on the grounds that it’s patently unrealistic, that we know the typical burden of rejoinder yields unrealistic scenarios, and that judges should assess debates in ways that produce realistic assessments. I don’t think this is too different from elements of Jonah Feldman’s old philosophy, where he basically said “when I assessed 40 percent last year, it’s 10 percent now.” Honestly, I was surprised that the few judges I talked to were so amenable to this argument. For me, just saying “it’s absurd, and you know it” wouldn’t be enough against an argument in which the other team invested considerable time. The more developed argument about accurate risk assessment would be more convincing, but I still think it would be vulnerable to a typical defense of the burden of rejoinder. To be blunt: I want debaters to learn why a disadvantage is absurd, not just make assertions that conform to their preexisting notions of what’s realistic and what’s not. And perhaps more importantly for this discussion, I could not coach a team to rely exclusively on this argument—I’m not convinced that enough judges are willing to discount a disadvantage on “it’s absurd.” Nonetheless, I think this is a useful “frame” that should preface a following, more robust explanation of why the risk of the disadvantage is basically zero—even before a substantive response is offered. There are other, broad genres of argument that can contest the substance of the negative’s argument. There are serious methodological indictments of the various forms of knowledge production, from journalistic reporting to think tanks to quantitative social science. Many of our most strongly worded cards come from people giving opinions, for which they offer very little data or evidence. And even when “qualified” people are giving predictions, there’s a great case to be extremely skeptical without real evidence backing it up. The world is a complicated place, predictions are hard, and most people are wrong. And again, this is before contesting the substance of the negative’s argument(!)—if deemed necessary. So, in my view, the low probability scenario is waiting to be eliminated from debate, basically as soon as a capable team tries to do it. That would open to the door to all of the arguments, previously excluded, de facto, by the prevalence of nuclear war impacts. It’s been tough to talk about racism or gender violence, since modest measures to mitigate these impacts have a difficult time outweighing a nuclear war. It’s been tough to discuss ethical policy making, since it’s hard to argue that any commitment to philosophical or ethical purity should apply in the face of an existential risk. It’s been tough to introduce unconventional forms of evidence, since they can’t really address the probability of nuclear war.

### UV – Theory

### UV – Topicality

#### Generics apply to rules – the res uses ought which isn’t one

Reiter and Frank ’10 (Nils Reiter and Anette Frank Department of Computational Linguistics Heidelberg University, Germany, July 2010. “Identifying Generic Noun Phrases” <https://pdfs.semanticscholar.org/5078/2fb22573c8b612743aade2d3e0b241f8ae0f.pdf> | SP)

Generic expressions come in two basic forms: generic noun phrases and generic sentences. Both express rule-like knowledge, but in different ways. A generic noun phrase is a noun phrase that does not refer to a specific (set of) individual(s), but rather to a kind or class of individuals. Thus, the NP The lion in (1.a)1 is understood as a reference to the class “lion” instead of a specific individual. Generic NPs are not restricted to occur with kind-related predicates as in (1.a). As seen in (1.b), they may equally well be combined with predicates that denote specific actions. In contrast to (1.a), the property defined by the verb phrase in (1.b) may hold of individual lions. (1) a. The lion was the most widespread mammal. b. Lions eat up to 30 kg in one sitting. Generic sentences are characterising sentences that quantify over situations or events, expressing rule-like knowledge about habitual actions or situations (2.a). This is in contrast with sentences that refer to specific events and individuals, as in (2.b).

#### Immigration court falls in the criminal justice system for all practical purposes. Vazquez 10

Vazquez, Yolanda, "Advising Noncitizen Defendants on the Immigration Consequences of Criminal Convictions: The Ethical Answer for the Criminal Defense Lawyer, the Court, and the Sixth Amendment" (2010). Faculty Articles and Other Publications. Paper 296. http://scholarship.law.uc.edu/fac\_pubs/296 Professor Vázquez is an expert in both the criminal justice and civil system. She is an Associate Professor of Law and teaches in the areas of immigration, property, criminal procedure, and crimmigration at U Cincinnati College of Law. Prior to joining the faculty, Professor Vázquez taught at the University of Pennsylvania Law School where she taught crimmigration and in the civil litigation clinic in various areas, such as landlord-tenant, civil forfeiture, fraudulent title transfers, mortgage fraud, 1983 litigation, child support, and family law. She also taught at Villanova University School of Law and the William S. Boyd School of Law at the University of Nevada-Las Vegas where her teaching focused on issues impacting low wage workers and immigrants in both the civil and criminal justice system. //nhs-VA

Next, even if the collateral consequences doctrine will be applied in certain circumstances, immigration consequences are not "indirect" to a criminal conviction and, therefore, should not fall under that category. Although the majority of courts have found that immigration actions result from a separate proceeding in a separate court and held that criminal courts have no jurisdiction over such proceedings, strong arguments exist to contradict this long held belief.29 One argument is that immigration is not a separate and distinct matter, outside the jurisdiction of the criminal court system. 30 Despite the refusal of most courts to recognize it, the existence of immigration law in the criminal court is well established as well as their intertwined histories and increasing ties. 31 One perfect example of this relationship is the role that criminal court judges have played and continue to play in the removal of noncitizens. Additionally, when factors such as immigration status are used to influence the strategies of prosecutors in prosecuting cases, in negotiating pleas, in determining bail, and in influencing charges that will be imposed, the ties that bind immigration law and the criminal system are clearly illustrated.33 Another strong argument against their categorization as a collateral consequence is the "definite immediate, or largely automatic" effect criminal convictions, especially aggravated felony convictions, have on a noncitizen defendant in light of the dramatic changes to immigration law that have taken place in the last twenty years.34 As discussed below, immigration law in the criminal courtroom has almost always existed and continues to exist to this day. A. History of Criminal Court Involvement with Immigration Law 1. Judicial Recommendation Against Deportation Abolished For seventy-three years, criminal courts had the ability to protect a defendant from removal. Criminal court judges would sign a Judicial Recommendation Against Deportation (JRAD) and neither the Attorney General nor Immigration Court had the power to overturn that decision to prevent the deportation of the immigrant. This authority was conferred on the judges with the passage of the Immigration Act of 1917: That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, makes a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act. The rationale for the JRAD system was that the criminal court and its players had the best ability to assess whether the defendant should be removed based upon his criminal charges or conviction.36 Eligibility for JRAD hinged on the defendant's ties to the community, as well as his family situation, criminal record, and evidence of rehabilitation.37 Because the criminal court judge spent more time on the criminal case and was more familiar with all of the circumstances of the case, the criminal court judge was seen as more knowledgeable about these factors than the immigration court judge. Therefore, it was both logical and efficient for the criminal court judge to determine whether an immigrant should be relieved from deportation for a criminal conviction. The Congressional Record of the 1917 Immigration Act provides some insight into the legislative intent behind JRAD. During the debate, legislative representatives expressed their desire for criminal court judges to be provided with a real opportunity to determine whether the defendants before them should be deported.39 Congress' goal was to help the defendant avoid deportation by educating judges on the possibility of providing the defendant with relief from deportation 40 under JRAD, as permitted under the law at the time. Legislators also considered the length of time that a defendant could request a JRAD after sentencing. 41 Their discussion spoke to the importance of JRADs and their struggle to make JRADs available to defendants is obviously in the record.42 The representatives' main concern seemed to be the lack of existing knowledge and opportunity to seek a JRAD, never did the discussion discuss its abolishment. 43 In this history, it is evident that Congress was aware of the detrimental effect that a criminal conviction had on a noncitizen's life and wanted the noncitizen to be given the opportunity to stay in the country. The argument that immigration law was a separate and distinct matter, therefore placing it outside the purview of the criminal court, was never brought into the discussion. As a further illustration of the keen awareness Congress held of the ramifications of criminal convictions on noncitizens and their support for its prevention, one only needs to be reminded of the fact that JRADs were proposed in 1917, forty-three years before the right to counsel in state criminal cases was given to defendants.44 It was not until 1990, 74 years after its enactment, that JRADs were abolished and the criminal courts lost the ability to prevent deportation of a noncitizen defendant who might otherwise have been worthy of reprieve.45 Very little is known about why JRADs were abolished, however the reason can be inferred from the political climate of the times. By the late 1900s, "illegal" immigration was a top political issue.46 Scholars have pointed out that from the early 1990s to the present day, criminal and immigration investigations "increasingly are being used in mutually reinforcing ways... the government has relied on immigration enforcement tools as a pretext for investigative techniques and detentions that would be suspect under the criminal rules." 4 7 Therefore, due to the increased impact of criminal law on immigration law and anti-immigrant attitudes, criminal courts were stripped of 48 their main tool for preventing deportation. 2. Federal Criminal Courts'Ability to Deport Noncitizens in Criminal Court Proceedings Although JRADs were abolished in 1990, criminal court judges were not severed from the determination of an immigrant defendant's removal. Reflecting the attitudes of the political climate, the perception that both legal and "illegal" immigrants were a drain on society and somehow served as a catalyst to increase the occurrence of crimes,49 Congress passed the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). This act gave federal criminal court judges the power to order deportation during the sentencing phase of a federal criminal 50 proceeding. Thereby, Congress gave criminal courts a continuing and direct involvement in deportation. The purpose of INTCA was to establish procedures for expediting the deportation of criminal aliens, and it included provisions granting federal district courts authority to issue judicial orders of deportation at the time of sentencing.5 1 Federal criminal court judges continue to have this authority to order deportation of a noncitizen defendant during a criminal court proceeding, thereby bypassing immigration court and expediting the removal of the noncitizen defendant from the United States.5 2 3. Creation of Criminal Court Admonishments to Advise Defendants of the Immigration Consequences of Their Conviction at Time ofPlea Under the Federal Rule of Criminal Procedure 11 and many states' Rule of Criminal Procedure 11 or statutes, courts are required to admonish a defendant at the time of the plea to ensure that the plea is both knowing and voluntary.53 Historically, the Court has limited the scope of this admonishment to information to information determined to be a "direct consequence[]" of the plea.54 Therefore, immigration implications would not be included in the admonishment since they have been seen 55 as "indirect" and, therefore, collateral consequences. Despite, the Court's distinction, many state legislatures have added provisions in their Rule 11 or enacted specific statutes requiring courts to admonish defendants that their plea may have adverse effects on their immigration status if they are not noncitizens.56 Two states, Colorado and Indiana, impose this duty by case law.57 In fact, many state-required admonishments go further and require the courts to advise that their plea may have adverse effects on, not only their immigration status, but their ability to naturalize. Currently, thirty states, the District of Columbia, Puerto Rico, and the United States military require such admonishments.59 Although legislative history is scant on the legislature's intent when enacting such statutes, the state legislative histories that do exist reflect the overwhelming desire to inform noncitizen defendants of the potential immigration consequences of their criminal conviction so that defendants will be able to make an informed decision about their plea while they still have an opportunity to prevent deportation. For example, the legislative history of the enactment of Washington's admonishment provision reads as follows: The legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea be preceded by an appropriate warning of the special conse quences for such a defendant which may result from the plea. As illustrated by the language above, legislative intent reflects three issues: (1) the legislature's acknowledgement that criminal convictions have a severe impact on a noncitizen defendant's immigration status; (2) their acknowledgment that defendants are often unaware of the consequences of their plea; and (3) their desire to create a mechanism by which noncitizen defendants will be informed of the immigration consequences of their criminal conviction during criminal court proceedings. As is illustrated in the increasing number such enactments through the years, this issue is gaining an increasing amount of attention. Legislatures, along with advocates and policy makers, are aware that immigration consequences are not only critical to the noncitizen defendant but many times more important than the criminal sentence. These legislative additions reflect the growing movement to maneuver past the courts' firmly established refusal to require advisement of immigration consequences during the criminal court proceeding, further reflecting the view that advice during the criminal proceeding is crucial. Therefore, it is not surprising that admonishment provisions continue to be enacted across the United States despite court opinions holding them to be collateral. B. History of Criminal Convictions Affecting Immigration Status In addition to the historical and current presence of immigration law in the criminal court system, criminal law is playing an increasing role in the immigration court system in two ways: 1) the number of crimes that qualify as a removable offense has significantly increased; and 2) many forms of relief that were previously available have been abolished for noncitizens convicted of crimes. 61 Unfortunately, these changes have done two things: (1) increased the number of noncitizens eligible for removal; and (2) increased the perception that immigrants are criminals, based on an increased pool of removable individuals Since criminal court proceedings may be the only chance to prevent removal, receiving information on the immigration consequences at the criminal court stage becomes crucial.

#### The criminal justice system isn’t one organization rather a diverse collection of agencies – even if immigration court isn’t part of criminal *courts*, it is a subset of the criminal justice system. CliffsNotes n.d.

“The Structure of Criminal Justice.” *The Structure of Criminal Justice*, www.cliffsnotes.com/study-guides/criminal-justice/the-criminal-justice-system/the-structure-of-criminal-justice. //nhs-VA

The phrase criminal justice system refers to a collection of federal, state, and local public agencies that deal with the crime problem. These agencies process suspects, defendants, and convicted offenders and are interdependent insofar as the decisions of one agency affect other agencies. The basic framework of the system is provided by the legislative, judicial, and executive branches of government. The legislature Legislatures, both state and federal, define crimes, fix sentences, and provide funding for criminal justice agencies. The judiciary Trial courts adjudicate (make judgments on and pronounce) the guilt of persons charged with crimes, and appellate courts interpret the law according to constitutional principles. Both state and federal appellate courts review legislative decisions and decide whether they fall within the boundaries of state law, federal law, and ultimately, the United States Constitution. **Judicial review** gives the courts the power to evaluate legislative acts in terms of whether they conform to the Constitution. If a law is in conflict with the Constitution, an appellate court may strike it down. The executive branch Executive power is given to the president, governors, and mayors. On criminal justice matters, they have the power to appoint judges and heads of agencies, such as police chiefs and directors of departments of corrections. In addition, elected officials can lead efforts to improve criminal justice by putting forth legislative agendas and mobilizing public opinion. The major components of the justice system The justice system's major components—police, courts, and corrections—prevent or deter crime by apprehending, trying, and punishing offenders. **Police departments** are public agencies whose purposes are to maintain order, enforce the criminal law, and provide services. Police officers operate in the community to prevent and control crime. They cooperate with prosecutors in criminal investigations, gathering evidence necessary to obtain convictions in the courts. Courts are tribunals where persons accused of violating criminal law come to have their criminal responsibility determined by juries or judges. The purposes of the courts are to seek justice and to discover the truth. The primary actors in the courts are the prosecutors, defense attorneys, and judges. **Corrections** include probation, parole, jail, prison, and a variety of new community‐based sanctions, such as electronic monitoring and house arrest. The purposes of correctional agencies are to punish, to rehabilitate, and to ensure public safety. The differences between federal and state justice systems Federal and state justice systems carry out the same functions (enforcing laws, trying cases, and punishing offenders), but the laws and agencies of the two systems differ. State legislatures make most criminal laws, which are enforced by state and local police. City and county prosecutors try persons accused of breaking state laws in state courts. Judges sentence offenders convicted of violating state laws to serve time in either locally supervised jails or state‐controlled correctional institutions. At the federal level, Congress enacts criminal laws, and federal law enforcement agencies, such as the Federal Bureau of Investigation, enforce these laws. U.S. attorneys prosecute persons accused of committing federal crimes, and U.S. courts try the cases. To punish and rehabilitate those convicted of federal crimes, the Federal Bureau of Prisons provides programs and institutions. The first line of defense against crime The administration of justice in the United States is mainly a state and local affair. State and local governments employ two‐thirds of all criminal justice workers and also pay a much larger share of the costs of criminal justice than the federal government. Then, too, state, county, and city criminal justice agencies provide most of the protection from thieves, rapists, and murderers. Criminal justice as a nonsystem Critics say criminal justice is really not a system. They point out that in some respects criminal justice agencies are independent bodies and that they take their authority and budgets from different sources. Police departments are funded mainly by towns and cities; prosecutors, public defenders, trial courts, and jails are mainly countywide; and prisons and appellate courts are mainly statewide. In addition to having separate sources of authority and funding, criminal justice agencies set their own policies. Finally, the agencies often fail to coordinate their activities and, thereby, ignore the impact that their decisions will have on other agencies.

### UV – Kritiks (1:45)

#### Understanding the intricacies of politics and the state is a prerequisite to addressing oppression – this comes prior to the alt. Bryant 12

Bryant 12 – (9/15, Levi, professor of Philosophy at Collin College and Chair of the Critical Philosophy program at the New Centre for Research and Practice, “War Machines and Military Logistics: Some Cards on the Table,” https://larvalsubjects.wordpress.com/2012/09/15/war-machines-and-military-logistics-some-cards-on-the-table/).

We need answers to these questions to intervene effectively. We can call them questions of “military logistics”. We are, after all, constructing war machines to combat these intolerable conditions. Military logistics asks two questions: first, it asks what things the opposing force, the opposing war machine captured by the state apparatus, relies on in order to deploy its war machine: supply lines, communications networks, people willing to fight, propaganda or ideology, people believing in the cause, etc. Military logistics maps all of these things. Second, military logistics asks how to best deploy its own resources in fighting that state war machine. In what way should we deploy our war machine to defeat war machines like racism, sexism, capitalism, neoliberalism, etc? What are the things upon which these state based war machines are based, what are the privileged nodes within these state based war machines that allows them to function? These nodes are the things upon which we want our nomadic war machines to intervene. If we are to be effective in producing change we better know what the supply lines are so that we might make them our target. What I’ve heard in these discussions is a complete indifference to military logistics. It’s as if people like to wave their hands and say “this is horrible and unjust!” and believe that hand waving is a politically efficacious act. Yeah, you’re right, it is horrible but saying so doesn’t go very far and changing it. It’s also as if people are horrified when anyone discusses anything besides how horribly unjust everything is. Confronted with an analysis why the social functions in the horrible way, the next response is to say “you’re justifying that system and saying it’s a-okay!” This misses the point that the entire point is to map the “supply lines” of the opposing war machine so you can strategically intervene in them to destroy them and create alternative forms of life. You see, we already took for granted your analysis of how horrible things are. You’re preaching to the choir. We wanted to get to work determining how to change that and believed for that we needed good maps of the opposing state based war machine so we can decide how to intervene. We then look at your actual practices and see that your sole strategy seems to be ideological critique or debunking. Your idea seems to be that if you just prove that other people’s beliefs are incoherent, they’ll change and things will be different. But we’ve noticed a couple things about your strategy: 1) there have been a number of bang-on critiques of state based war machines, without things changing too much, and 2) we’ve noticed that we might even persuade others that labor under these ideologies that their position is incoherent, yet they still adhere to it as if the grounds of their ideology didn’t matter much. This leads us to suspect that there are other causal factors that undergird these social assemblages and cause them to endure is they do. We thought to ourselves, there are two reasons that an ideological critique can be successful and still fail to produce change: a) the problem can be one of “distribution”. The critique is right but fails to reach the people who need to hear it and even if they did receive the message they couldn’t receive it because it’s expressed in the foreign language of “academese” which they’ve never been substantially exposed to (academics seem to enjoy only speaking to other academics even as they say their aim is to change the world). Or b) there are other causal factors involved in why social worlds take the form they do that are not of the discursive, propositional, or semiotic order. My view is that it is a combination of both. I don’t deny that ideology is one component of why societies take the form they do and why people tolerate intolerable conditions. I merely deny that this is the only causal factor. I don’t reject your political aims, but merely wonder how to get there. Meanwhile, you ~~guys~~ behave like a war machine that believes it’s sufficient to drop pamphlets out of an airplane debunking the ideological reasons that persuade the opposing force’s soldiers to fight this war on behalf of the state apparatus, forgetting supply lines, that there are other soldiers behind them with guns to their back, that they have obligations to their fellows, that they have families to feed or debt to pay off, etc. When I point out these other things it’s not to reject your political aims, but to say that perhaps these are also good things to intervene in if we wish to change the world. In other words, I’m objecting to your tendency to use a hammer to solve all problems and to see all things as a nail (discursive problems), ignoring the role that material nonhuman entities play in the form that social assemblages take. This is the basic idea behind what I’ve called “terraism”. Terraism has three components: 1) “Cartography” or the mapping of assemblages to understand why they take the form they take and why they endure. This includes the mapping of both semiotic and material components of social assemblages. 2) “Deconstruction” Deconstruction is a practice. It includes both traditional modes of discursive deconstruction (Derridean deconstruction, post-structuralist feminist critique, Foucaultian genealogy, Cultural Marxist critique, etc), but also far more literal deconstruction in the sense of intervening in material or thingly orders upon which social assemblages are reliant. It is not simply beliefs, signs, and ideologies that cause oppressive social orders to endure or persist, but also material arrangements upon which people depend to live as they do. Part of changing a social order thus necessarily involves intervening in those material networks to undermine their ability to maintain their relations or feedback mechanisms that allow them to perpetuate certain dependencies for people. Finally, 3) there is “Terraformation”. Terraformation is the hardest thing of all, as it requires the activist to be something more than a critic, something more than someone who simply denounces how bad things are, someone more than someone who simply sneers, producing instead other material and semiotic arrangements rendering new forms of life and social relation possible. Terraformation consists in building alternative forms of life. None of this, however, is possible without good mapping of the terrain so as to know what to deconstruct and what resources are available for building new worlds. Sure, I care about ontology for political reasons because I believe this world sucks and is profoundly unjust. But rather than waving my hands and cursing because of how unjust and horrible it is so as to feel superior to all those about me who don’t agree, rather than playing the part of the beautiful soul who refuses to get his hands dirty, I think we need good maps so we can blow up the right bridges, power lines, and communications networks, and so we can engage in effective terraformation.

#### Scenario analysis is pedagogically valuable – it enhances creativity and self-reflexivity, deconstructs cognitive biases and flawed ontological assumptions, and enables the creation of positive alternative futures. Barma 16

Barma et al. 16 – (May 2016, ~Advance Publication Online on 11/6/15~, Naazneen Barma, PhD in Political Science from UC-Berkeley, Assistant Professor of National Security Affairs at the Naval Postgraduate School, Brent Durbin, PhD in Political Science from UC-Berkeley, Professor of Government at Smith College, Eric Lorber, JD from UPenn and PhD in Political Science from Duke, Gibson, Dunn & Crutcher, Rachel Whitlark, PhD in Political Science from GWU, Post-Doctoral Research Fellow with the Project on Managing the Atom and International Security Program within the Belfer Center for Science and International Affairs at Harvard, "'Imagine a World in Which': Using Scenarios in Political Science," International Studies Perspectives 17 (2), pp. 1-19, http://www.naazneenbarma.com/uploads/2/9/6/9/29695681/using\_scenarios\_in\_political\_science\_isp\_2015.pdf).

Scenario analysis is perceived most commonly as a technique for examining the robustness of strategy. It can immerse decision makers in future states that go beyond conventional extrapolations of current trends, preparing them to take advantage of unexpected opportunities and to protect themselves from adverse exogenous shocks. The global petroleum company Shell, a pioneer of the technique, characterizes scenario analysis as the art of considering “what if” questions about possible future worlds. Scenario analysis is thus typically seen as serving the purposes of corporate planning or as a policy tool to be used in combination with simulations of decision-making. Yet scenario analysis is not inherently limited to these uses. This section provides a brief overview of the practice of scenario analysis and the motivations underpinning its uses. It then makes a case for the utility of the technique for political science scholarship and describes how the scenarios deployed at NEFPC were created. We characterize scenario analysis as the art of juxtaposing current trends in unexpected combinations in order to articulate surprising and yet plausible futures, often referred to as “alternative worlds.” Scenarios are thus explicitly not forecasts or projections based on linear extrapolations of contemporary patterns, and they are not hypothesis-based expert predictions. Nor should they be equated with simulations, which are best characterized as functional representations of real institutions or decision-making processes (Asal 2005). Instead, they are depictions of possible future states of the world, offered together with a narrative of the driving causal forces and potential exogenous shocks that could lead to those futures. Good scenarios thus rely on explicit causal propositions that, independent of one another, are plausible—yet, when combined, suggest surprising and sometimes controversial future worlds. For example, few predicted the dramatic fall in oil prices toward the end of 2014. Yet independent driving forces, such as the shale gas revolution in the United States, China’s slowing economic growth, and declining conflict in major Middle Eastern oil producers such as Libya, were all recognized secular trends that—combined with OPEC’s decision not to take concerted action as prices began to decline—came together in an unexpected way. While scenario analysis played a role in war gaming and strategic planning during the Cold War, the real antecedents of the contemporary practice are found in corporate futures studies of the late 1960s and early 1970s (Raskin et al. 2005). Scenario analysis was essentially initiated at Royal Dutch Shell in 1965, with the realization that the usual forecasting techniques and models were not capturing the rapidly changing environment in which the company operated (Wack 1985; Schwartz 1991). In particular, it had become evident that straight-line extrapolations of past global trends were inadequate for anticipating the evolving business environment. Shell-style scenario planning “helped break the habit, ingrained in most corporate planning, of assuming that the future will look much like the present” (Wilkinson and Kupers 2013, 4). Using scenario thinking, Shell anticipated the possibility of two Arab-induced oil shocks in the 1970s and hence was able to position itself for major disruptions in the global petroleum sector. Building on its corporate roots, scenario analysis has become a standard policy- making tool. For example, the Project on Forward Engagement advocates linking systematic foresight, which it defines as the disciplined analysis of alternative futures, to planning and feedback loops to better equip the United States to meet contemporary governance challenges (Fuerth 2011). Another prominent application of scenario thinking is found in the National Intelligence Council’s series of Global Trends reports, issued every four years to aid policymakers in anticipating and planning for future challenges. These reports present a handful of “alternative worlds” approximately twenty years into the future, carefully constructed on the basis of emerging global trends, risks, and opportunities, and intended to stimulate thinking about geopolitical change and its effects. As with corporate scenario analysis, the technique can be used in foreign policymaking for long-range general planning purposes as well as for anticipating and coping with more narrow and immediate challenges. An example of the latter is the German Marshall Fund’s EuroFutures project, which uses four scenarios to map the potential consequences of the Euro-area financial crisis (German Marshall Fund 2013). Several features make scenario analysis particularly useful for policymaking. Long-term global trends across a number of different realms—social, technological, environmental, economic, and political—combine in often-unexpected ways to produce unforeseen challenges. Yet the ability of decision makers to imagine, let alone prepare for, discontinuities in the policy realm is constrained by their existing mental models and maps. This limitation is exacerbated by well-known cognitive bias tendencies such as groupthink and confirmation bias (Jervis 1976; Janis 1982; Tetlock 2005). The power of scenarios lies in their ability to help individuals break out of conventional modes of thinking and analysis by introducing unusual combinations of trends and deliberate discontinuities in narratives about the future. Imagining alternative future worlds through a structured analytical process enables policymakers to envision and thereby adapt to something altogether different from the known present. The characteristics of scenario analysis that commend its use to policymakers also make it well suited to helping political scientists generate and develop policy-relevant research programs. Scenarios are essentially textured, plausible, and relevant stories that help us imagine how the future political-economic world could be different from the past in a manner that highlights policy challenges and opportunities. For example, terrorist organizations are a known threat that have captured the attention of the policy community, yet our responses to them tend to be linear and reactive. Scenarios that explore how seemingly unrelated vectors of change—the rise of a new peer competitor in the East that diverts strategic atten- tion, volatile commodity prices that empower and disempower various state and nonstate actors in surprising ways, and the destabilizing effects of climate change or infectious disease pandemics—can be useful for illuminating the nature and limits of the terrorist threat in ways that may be missed by a narrower focus on recognized states and groups. By illuminating the potential strategic significance of specific and yet poorly understood opportunities and threats, scenario analysis helps to identify crucial gaps in our collective understanding of global political-economic trends and dynamics. The notion of “exogeneity”—so prevalent in social science scholarship—applies to models of reality, not to reality itself. Very simply, scenario analysis can throw into sharp relief often-overlooked yet pressing questions in international affairs that demand focused investigation. Scenarios thus offer, in principle, an innovative tool for developing a political science research agenda. In practice, achieving this objective requires careful tailoring of the approach. The specific scenario analysis technique we outline below was designed and refined to provide a structured experiential process for generating problem-based research questions with contemporary international policy relevance. The first step in the process of creating the scenario set described here was to identify important causal forces in contemporary global affairs. Consensus was not the goal; on the contrary, some of these causal statements represented competing theories about global change (e.g., a resurgence of the nation-state vs. border-evading globalizing forces). A major principle underpinning the trans- formation of these causal drivers into possible future worlds was to “simplify, then exaggerate” them, before fleshing out the emerging story with more details.7 Thus, the contours of the future world were drawn first in the scenario, with de- tails about the possible pathways to that point filled in second. It is entirely possible, indeed probable, that some of the causal claims that turned into parts of scenarios were exaggerated so much as to be implausible, and that an unavoidable degree of bias or our own form of groupthink went into construction of the scenarios. One of the great strengths of scenario analysis, however, is that the scenario discussions themselves, as described below, lay bare these especially implausible claims and systematic biases. An explicit methodological approach underlies the written scenarios themselves as well as the analytical process around them—that of case-centered, structured, focused comparison, intended especially to shed light on new causal mechanisms (George and Bennett 2005). The use of scenarios is similar to counterfactual analysis in that it modifies certain variables in a given situation in order to analyze the resulting effects (Fearon 1991). Whereas counterfactuals are tradi- tionally retrospective in nature and explore events that did not actually occur in the context of known history, our scenarios are deliberately forward-looking and are designed to explore potential futures that could unfold. As such, counterfactual analysis is especially well suited to identifying how individual events might ex- pand or shift the “funnel of choices” available to political actors and thus lead to different historical outcomes (Nye 2005, 68–69), while forward-looking scenario analysis can better illuminate surprising intersections and sociopolitical dynamics without the perceptual constraints imposed by fine-grained historical knowledge. We see scenarios as a complementary resource for exploring these dynamics in international affairs, rather than as a replacement for counterfactual analysis, historical case studies, or other methodological tools. In the scenario process developed for NEFPC, three distinct scenarios are employed, acting as cases for analytical comparison. Each scenario, as detailed below, includes a set of explicit “driving forces” which represent hypotheses about causal mechanisms worth investigating in evolving international affairs. The scenario analysis process itself employs templates (discussed further below) to serve as a graphical representation of a structured, focused investigation and thereby as the research tool for conducting case-centered comparative analysis (George and Bennett 2005). In essence, these templates articulate key observable implications within the alternative worlds of the scenarios and serve as a framework for capturing the data that emerge (King, Keohane, and Verba 1994). Finally, this structured, focused comparison serves as the basis for the cross-case session emerging from the scenario analysis that leads directly to the articulation of new research agendas. The scenario process described here has thus been carefully designed to offer some guidance to policy-oriented graduate students who are otherwise left to the relatively unstructured norms by which political science dissertation ideas are typically developed. The initial articulation of a dissertation project is generally an idiosyncratic and personal undertaking (Useem 1997; Rothman 2008), whereby students might choose topics based on their coursework, their own previous policy exposure, or the topics studied by their advisors. Research agendas are thus typically developed by looking for “puzzles” in existing research programs (Kuhn 1996). Doctoral students also, understandably, often choose topics that are particularly amenable to garnering research funding. Conventional grant programs typically base their funding priorities on extrapolations from what has been important in the recent past—leading to, for example, the prevalence of Japan and Soviet studies in the mid-1980s or terrorism studies in the 2000s—in the absence of any alternative method for identifying questions of likely future significance. The scenario approach to generating research ideas is grounded in the belief that these traditional approaches can be complemented by identifying questions likely to be of great empirical importance in the real world, even if these do not appear as puzzles in existing research programs or as clear extrapolations from past events. The scenarios analyzed at NEFPC envision alternative worlds that could develop in the medium (five to seven year) term and are designed to tease out issues scholars and policymakers may encounter in the relatively near future so that they can begin thinking critically about them now. This timeframe offers a period distant enough from the present as to avoid falling into current events analysis, but not so far into the future as to seem like science fiction. In imagining the worlds in which these scenarios might come to pass, participants learn strategies for avoiding failures of creativity and for overturning the assumptions that prevent scholars and analysts from anticipating and understanding the pivotal junctures that arise in international affairs.

#### No root cause claims

Levy & Thompson 13 (Jack S. Levy is Board of Governors' Professor of Political Science at Rutgers University, and Affiliate at the Saltzman Institute of War and Peace Studies at Columbia University, and William R. Thompson is Rogers Professor of Political Science at Indiana University and Managing Editor of International Studies Quarterly, "The Decline of War? Multiple Trajectories and Diverging Trends", International Studies Review, 2013, 15, pp. 396-419)

If true, we would have a unified theory of violence. Pinker subsequently steps back from this expansive claim. He notes that some other forms of violence— including homicides, lynchings, domestic violence, and rapes—do not fit a power law model, suggesting that the mechanisms driving these practices differ from those driving international war. Still, there are others who have insisted on a unified theory of violence. Examples might include Freud’s psychoanalytic theory of aggressive instincts as a root cause of war (Einstein and Freud 1933), frustration-aggression theory (Durbin and Bowlby 1939), and contemporary rational choice theories. We are highly skeptical. We fear that any theory broad enough to explain violence at the levels of the individual, family, neighborhood, communal group, state, and international system would be too general and too indiscriminating to capture variations in violence within each level, which is a prerequisite for any satisfactory theoretical explanation. It is difficult to imagine an explanation for great power war, or interstate war more generally, that does not include system-level structures of power and wealth, dyadic-level rivalries, and domestic institutions and processes. All but the latter contribute little if anything to an explanation of homicides and domestic violence. It is not even clear whether **different kinds of organized warfare**—hegemonic wars, interstate wars, colonial wars, and civil wars—can be explained with a single theory. In fact, the theoretical literature on interstate war and civil war remains for the most part two distinct literatures, with little overlap in their respective analyses of the causes of war.9 Exceptions include the concept of the security dilemma (Posen 1993; Snyder and Jervis 1999) and the increasingly influential bargaining model of war (Fearon 1995), which cut across both literatures. International relations scholars are even divided on the question of whether **different kinds of interstate wars** can be subsumed under a single theory. A 1990 symposium addressed the questions of whether big wars and small wars had similar causes and whether a single theory could account for both.10 Whereas Bueno de Mesquita (1990) argued that an expected utility framework can explain all kinds of wars, Thompson (1990) argued that system-level structures of power and wealth differentiate big wars from small wars.11 The closely related question of whether the outbreak and spread (expansion) of war are driven by the same or different variables and processes was the subject of another recent symposium (Vasquez, Diehl, Flint, and Scheffran 2011). Our skepticism about the utility of a unified theory of violence or war is reinforced by the systematic and rigorous evidence Pinker provides about the trends in different forms of violence over time

#### Reps Ks assumes *Representational Determinism*. Prefer the *particularized* and *surrounding context* of HOW our reps were deployed.

Shim ‘14(David Shim is Assistant Professor at the Department of International Relations and International Organization of the University of Groningen – As part of the critique of visual determinism, this card internally quotes David D. Perlmutter, Ph.D.. He is Dean of the College of Media & Communication at Texas Tech University. Before coming to Texas Tech, he was the director of the School of Journalism and Mass Communication at the University of Iowa. As a documentary photographer, he is the author or editor of seven books on political communication and persuasion. Also, he has written several dozen research articles for academic journals as well as more than 200 essays for U.S. and international newspapers and magazines such as Campaigns & Elections, Christian Science Monitor, Editor & Publisher, Los Angeles Times, MSNBC.com., Philadelphia Inquirer, and USA Today. Routledge Book Publication –Visual Politics and North Korea: Seeing is believing – p.24-25)

Imagery can enact powerful effects, since political actors are almost always pressed to take action when confronted with images of atrocity and human suffering resultant from wars, famines and natural disasters. Usually, humanitarian emergencies are conveyed through media representations, which indicate the important role of images in producing emergency situations as (global) events (Benthall 1993; Campbell 2003b; Lisle 2009; Moeller 1999; Postman 1987). Debbie Lisle (2009: 148) maintains that, 'we see that the objects, issues and events we usually study [. . .] do not even exist without the media [.. .] to express them’. As a consequence, visual images have political and ethical consequences as a result of their role in shaping private and public ways of seeing (Bleiker. Kay 2007). This is because how people come to know, think about and respond to developments in the world is deeply entangled with how these developments are made visible to them. Visual representations participate in the processes of how people situate themselves in space and time, because seeing involves accumulating and ordering information in order to be able to construct knowledge of people, places and events. For example, the remembrance of such events as the Vietnam War, the terrorist attacks of 11 September 2001 or the torture in Abu Ghraib prison cannot be separated from the ways in which these events have been represented in films, TV and photography (Bleiker 2009; Campbell/Shapiro 2007; Moller2007). The visibility of these events can help to set the conditions for specific forms of political action. The current war in Afghanistan serves as an example of this. Another is the nexus of hunger images and relief operations. Vision and visuality thus become part and parcel of political dynamics, also revealing the ethical dimension of imagery, as it affects the ways in which people interact with each other. However, particular representations do not automatically lead to particular responses as, for instance, proponents of the so-called 'CNN effect’ would argue (for an overview of the debates among academic, media and policy-making circles on the 'CNN effect', see Gilboa 2005; see also. Dauber 2001; Eisensee/ Stromberg 2007; Livingston/Eachus 1995; O'Loughlin 2010; Perlmutter 1998, 2005; Robinson 1999, 20011. There is no causal relationship between a specific image and a political intervention, in which a dependent variable (the image) would explain the outcome of an independent one (the act). David Perlmutter (1998: I), for instance, explicitly challenges, as he calls it, the 'visual determinism' of images, which dominates political and public opinion. Referring to findings based on public surveys, he argues that the formation of opinions by individuals depends not on images but on their idiosyncratic predispositions and values (see also, Domke et al. 2002; Perlmutter 2005).

### UV – Fassin

**Survival is a prerequisite to other values**

**Fassin 10** - James D. Wolfensohn Professor in the School of Social Science at the Institute for Advanced Study, Princeton, as well as directeur d’études at the École des Hautes Études en Sciences Sociales, Paris. (Didier, Fall, “Ethics of Survival: A Democratic Approach to the Politics of Life” Humanity: An International Journal of Human Rights, Humanitarianism, and Development, Vol 1 No 1, Project Muse)

Conclusion

Survival, in the sense Jacques Derrida attributed to the concept in his last interview, not only shifts lines that are too often hardened between biological and political lives: it **opens an ethical space for** **reflection and action**. Critical thinking in the past decade has often taken biopolitics and the politics of life as its objects. It has thus unveiled the way in which individuals and groups, even entire nations, have been treated by powers, the market, or the state, during the colonial period as well as in the contemporary era. However, through indiscriminate extension, this powerful instrument has lost some of its analytical sharpness and heuristic potentiality. On the one hand, the binary reduction of life to the opposition between nature and history, bare life and qualified life, when systematically applied from philosophical inquiry in sociological or anthropological study, erases much of the complexity and richness of life in society as it is in fact observed. On the other hand, the normative prejudices which underlie the evaluation of the forms of life and of the politics of life, when generalized to an undifferentiated collection of social facts, end up by depriving social agents of legitimacy, voice, and action. The risk is therefore both scholarly and political. It calls for ethical attention. In fact, the genealogy of this intellectual lineage reminds us that the main founders of these theories expressed tensions and hesitations in their work, which was often more complex, if even sometimes more obscure, than in its reduced and translated form in the humanities and social sciences today. And also biographies, here limited to fragments from South African lives that I have described and analyzed in more detail elsewhere, suggest the necessity of complicating the dualistic models that oppose biological and political lives. Certainly, powers like the market and the state do act sometimes as if human beings could be reduced to “mere life,” but democratic forces, including from within the structure of power, tend to produce alternative strategies that escape this reduction. And people themselves, even under conditions of domination, [End Page 93] manage subtle tactics that transform their physical life into a political instrument or a moral resource or an affective expression.

# Frontlines

## Case

### OV – Deportations

### OV – Reforms

### AT: Padilla

#### Padilla only applies to cases where deportation is part of the sentence, but the plan bans plea bargaining in cases where deportation is part of the plea deal; it doesn’t make sense for defense attorneys to be required to state the possible deportation consequences if deportation is already on the table.

#### Padilla can’t apply retroactively – no long term solvency. Johnson 13

Kevin Johnson, Opinion recap: Court refuses to apply Padilla v. Kentucky retroactively, SCOTUSblog (Feb. 21, 2013, 7:10 PM), http://www.scotusblog.com/2013/02/opinion-recap-court-refuses-to-apply-padilla-v-kentucky-retroactively/

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\*Bracketed for gendered language

In *Padilla v. Kentucky* (2010), the Supreme Court in a path-breaking decision held that an ineffective assistance of counsel claim under the Sixth Amendment could be based on the failure to inform a criminal defendant of the immigration consequences of a criminal conviction before entering into a plea agreement. Earlier this week, in Chaidez v. United States, Justice Kagan, writing for six other Justices, concluded that, under the principles set out in Teague v. Lane (1989), Padilla should not apply retroactively to criminal convictions entered before March 2010. The petitioner in the case, Roselva Chaidez, entered the United States from Mexico in 1971 and became a lawful permanent resident in 1977. In connection with an automobile insurance fraud scam in which she had received less than two thousand dollars, she – on advice of her attorney – had pleaded guilty to two counts of mail fraud and was sentenced to probation and to pay restitution. Her conviction became final in 2004. According to Chaidez, her attorney never warned her that her conviction could result in her mandatory removal from the country. In 2009, after Chaidez’s naturalization petition brought her and her conviction to the attention of the federal government, removal proceedings were instituted against her. Through a writ of coram nobis, Chaidez sought to set aside her conviction. While the petition was pending, the Court issued its decision in *Padilla v. Kentucky.* The Seventh Circuit held in Chaidez’s case that Padilla does not apply to a challenge to a conviction that became final before it was decided. On Wednesday the Supreme Court agreed. At the outset, the Court observed that *Teague v. Lane* “makes the retroactivity of our criminal procedures decisions turn on whether they are *novel*.” (emphasis added). The Court notes that “garden-variety applications of the test in Strickland v. Washington (1984), for assessing claims of ineffective assistance of counsel do not produce new rules.” However, the decision in *Padilla v. Kentucky*, in the Court’s view, “did something more” than that. Before *Padilla*, the state and lower federal courts almost unanimously concluded that the Sixth Amendment does not require attorneys to advise their clients of a conviction’s collateral consequences, including possible removal from the country. *Padilla* rejected that rule. No precedent dictated the answer. “Padilla’s holding that the failure to advise about a non-criminal consequence could violate the Sixth Amendment would not have been – in fact, was not – ‘apparent to all reasonable jurists’ prior to our decision. Padilla thus announced a ‘new rule.’” In the last footnote of the opinion, the majority declined to address two arguments that the Court deemed were not properly raised in the lower courts – “that Teague’s bar on retroactivity does not apply when a petitioner challenges a federal conviction, or at least does not do so when [they] make~~s~~ a claim of ineffective assistance.” These issues may well reappear before the Supreme Court in the near future. Justice Thomas, who dissented in *Padilla*, concurred in the judgment, still believing that the case was wrongly decided and, in any event, should not apply to Chaidez’s case. Justice Sotomayor, joined by Justice Ginsburg, dissented. She reasoned that, rather than establish a new rule, Padilla “did nothing more than apply the existing rule of Strickland v. Washington(1984),” governing ineffective assistance of counsel, “in a new setting.” *Chaidez* is the latest application of the *Teague v. Lane* retroactivity test. By most accounts, *Padilla* represented a significant change in the law. Consequently, it proved challenging for Chaidez to prevail in showing that, for retroactivity purposes, *Padilla* did not in fact create a “new” or “novel” rule. A majority of the Court ruled that the change in the law was sufficiently significant that it should not apply retroactively. There is little reason to think that *Chaidez* will have much of an impact on the Court’s retroactivity or immigration jurisprudence. The Court understood this to be a run-of-the mill application of the retroactivity principles of *Teague v. Lane*, with the junior Justice assigned the decision. Moreover, although tangentially involving immigration law, the decision does not meaningfully address any issues of immigration law or change in any way the holding in *Padilla v. Kentucky*. At the same time, the Supreme Court’s holding that Padilla v. Kentucky will not apply retroactively will no doubt affect large numbers of plea deals in which the convictions were entered into before March 2010. The Obama administration has made it a priority to remove “criminal aliens” from the United States and has based many removal actions on convictions more than a few years old. Ultimately, thousands, if not, tens of thousands, of lawful permanent residents facing removal are likely to be affected by Chaidez and likely to suffer significant hardships if removed from the United States. Chaidez, for example, has lived in the United States for four decades and has three children and two grandchildren who are U.S. citizens. Now facing removal, she faces the possibility of being stripped from the only community and family she really has ever known.

#### Padilla overturned. Oyez 10

Oyez. “Padilla vs Kentucky.” *Oyez*, 2010, www.oyez.org/cases/2009/08-651. Oyez (pronounced oh-yay), a free law project from Cornell’s Legal Information Institute (LII), Chicago-Kent College of Law and Justia.com, is a multimedia archive devoted to making the Supreme Court of the United States accessible to everyone. //nhs-VA

Jose Padilla was indicted by a Kentucky grand jury on counts of trafficking in marijuana, possession of marijuana, possession of drug paraphernalia, and operating a tractor/trailer without a weight and distance tax number. On advice from his lawyer, he entered a guilty plea with respect to the three drug charges in exchange for dismissal on the final charge. He subsequently filed for post-conviction relief arguing that he was misadvised about the potential for deportation as a consequence of his guilty plea. The Kentucky Court of Appeals reversed Mr. Padilla's conviction and remanded the case for an evidentiary hearing.

On appeal to the Kentucky Supreme Court, the court, relying on its decision in *Commonwealth v. Fuartado*, reversed the court of appeals. It held that collateral consequences of advice by counsel is outside the scope of the guarantee of the Sixth Amendment's right to counsel. It reasoned that counsel's advice on the consequences of a plea with respect to immigration is not required and therefore cannot constitute ineffectiveness.

#### Doesn’t solve. Cade 13

Cade, Jason A. “THE PLEA-BARGAIN CRISIS FOR NONCITIZENS IN MISDEMEANOR COURT.” Cardozo Law Review, 2013, www.cardozolawreview.com/content/34-5/CADE.34.5.pdf. Assistant Professor, University of Georgia Law School. A.B., University of North Carolina at Chapel Hill. J.D., Brooklyn Law School. Jason A. Cade joined the University of Georgia School of Law faculty in 2013 and was promoted to associate professor in the fall of 2017. He teaches Immigration Law and directs the school’s Community Health Law Partnership (Community HeLP) Clinic. //nhs-VA

The misdemeanor system works poorly for all defendants, but noncitizens may fare worst of all. First, the institutional features of the system make it unlikely that noncitizens will be adequately informed about whether pleas affect their ability to remain in the United States.138 In spite of Padilla’s mandate, noncitizens commonly plead guilty to petty offenses without knowing that deportation (and mandatory detention, or, at the least, a prohibitively high immigration bond) will result. Even where defendants learn that a plea may result in immigration consequences, time pressures and other endemic obstacles frustrate the ability to bargain for immigration-safe dispositions or mount a defense. Moreover, the ICE enforcement programs tend to magnify other process costs, further distorting the misdemeanor system’s ability to sort meritorious prosecutions or reliably adjudicate guilt. Noncitizens placed under immigration detainers at booking, or who fear ICE contact in pretrial detention, have a tremendous incentive to plead guilty as quickly as possible in misdemeanor court, even to charges that trigger the possibility of additional immigration consequences, and even if they are innocent or have been subject to unlawful police practices.

### AT: Counsel Solves

#### Doesn’t solve – systemic costs like ICE detainer programs. Cade 13

Cade, Jason A. “THE PLEA-BARGAIN CRISIS FOR NONCITIZENS IN MISDEMEANOR COURT.” Cardozo Law Review, 2013, www.cardozolawreview.com/content/34-5/CADE.34.5.pdf. Assistant Professor, University of Georgia Law School. A.B., University of North Carolina at Chapel Hill. J.D., Brooklyn Law School. Jason A. Cade joined the University of Georgia School of Law faculty in 2013 and was promoted to associate professor in the fall of 2017. He teaches Immigration Law and directs the school’s Community Health Law Partnership (Community HeLP) Clinic. //nhs-VA

Thus far in this Part, I have concentrated on features of the misdemeanor system that are more or less common in many jurisdictions throughout the country. Our close examination of how these norms play out for noncitizens reveals the tremendous obstacles they face in obtaining favorable outcomes for immigration purposes in lower criminal courts. Defendants who lack competent counsel, or any attorney at all, will not be aware of the immigration consequences of guilty pleas to petty charges. Even when defendants have knowledgeable counsel, effective plea bargains and acquittals are difficult to achieve. To be sure, where noncitizens are made aware that the total sanction includes deportation or other immigration consequences, the cost-benefit calculation changes, increasing the likelihood that they would try to fight their cases at trial whatever the odds of success.266 But there is a countervailing dynamic in the thousands of jurisdictions where ICE has integrated immigration enforcement programs with local criminal processes. The ICE programs exacerbate the process costs for noncitizens and often quash what incentives they might otherwise have to fight the criminal case.

### AT: Brain Drain

#### Alt causes to brain drain – deportation uniquely outweighs since they send immigrants back to areas of violence. Velasco 14

Velasco, Jesus. “Academic Brain Drain.” Americas Quarterly, 2014, www.americasquarterly.org/content/academic-brain-drain. Jesús R. Velasco teaches Medieval and Early Modern Studies at Columbia. He has taught at the University of California, Berkeley, Universidad de Salamanca, Université de Paris III (Sorbonne Nouvelle), and the École Normale Supérieure (Lettres et Sciences Humaines). He has been one of the executive directors of the Journal of Medieval Iberian Studies and a member of the MLA Committee on Scholarly Editions. //nhs-VA

There are at least four reasons why so many well-prepared Mexicans move to the U.S., or remain there after completing their education. The first is the lack of proper research infrastructure and resources at home. Many Mexicans go abroad to receive specialized training in science and technology, but return to find that the basic culture, infrastructure and funding critical to continue their research does not exist. In 2012, Mexico invested only 0.40 percent of its GDP in research and development, while Brazil invested 1.25 percent. The situation is more dramatic when we compare Mexican investment with South Korea (3.45 percent) or the United States (2.68 percent). President Enrique Peña Nieto has promised to invest 1 percent by 2018, and the country has already started to fulfill that pledge. This year’s budget included $6 billion for science, technology and innovation, an increase of 12 percent from the previous year. According to CONACYT, in 2011 Mexico had only 0.8 researchers per 1,000 participants in the workforce. That compares to 11.9 in South Korea, 10.2 in Japan, 9.9 in Portugal, 9.5 in the U.S., and 2.4 in Argentina (in 2010). Likewise, in 2012, Mexico’s research production was significantly lower when compared with the academic production of other countries. In that year, Mexico produced 10,181 scholarly articles, while the U.S. research community published 335,072; China, 154,860; the United Kingdom 96,692; and Brazil, 35,042. Of course, these numbers say nothing about the quality of the articles themselves, but they do paint a picture of the overall dearth of research and research dissemination undertaken in Mexico. Often, young scholars trained in the U.S., Canada or Europe simply cannot find academic positions in Mexico. “There are fewer academic jobs in my field in Mexico,” asserted Gabriela Sánchez, a young Mexican sociologist and demographer at the University of Texas at San Antonio (UTSA). Professor Sánchez works on international migration and family demography. Her research concentrates on how international migration affects young people’s education and family life in Mexico and the United States. According to her, “Mexico has great demography programs, some of which would have been a good fit for me. However, in the year I went on the job market, very few positions became available. I was only able to apply to two jobs in Mexico, compared to almost 50 in the United States and Canada.” Laura Trejo, who directs the Laboratory of Virology and Cancer at the Autonomous University of Nuevo León but was trained in France, found it difficult to pursue her research, especially in Mexico’s regional universities, “because researchers do not have all the elements—infrastructure, money, time—to do their work.” Trejo estimates that more than 50 percent of her students pursue graduate studies in the U.S., Canada or Europe—with no plans to return to Mexico after obtaining their degrees. “We do not have resources,” asserted Clara Gorodezky, a distinguished Mexican scientist and head of the Department of Immunology and Immunogenetics at the Secretariat of Health. “I am a first-rate professional beggar.” According to Irazema González, secretary of the Commission of Science and Technology in Mexico’s lower house of Congress, and as reported in the Mexican newspaper *Milenio* on November 15, 2013, of the 2014 budget for science technology and innovation of 81 billion pesos ($6,293,076), only 24 percent is dedicated to scholarships for MA or PhD programs, and 12 percent to support Mexican research through the *Sistema Nacional de Investigadores* (National System of Researchers—SNI). The second reason is the instability of Mexican research institutions. Politics play a large role in the Mexican academy. Union strikes, pressures from the government on universities to move research into one area or another, and political appointees in academic institutions are some manifestations of this problem. A simple way to observe the penetration of politics in Mexican academia is to compare the appointees in CONACYT to those in its counterpart in the U.S., the National Science Foundation (NSF). In Mexico and the U.S., the president of the country appoints the head of those institutions. However, in the U.S., the appointment has to be confirmed by the Senate. In Mexico, not only is the head not approved by the Senate, the board is weighted heavily by law toward government officials, including representatives of seven ministries. In contrast, in the U.S., the great majority of the members of the NSF board is professors emeriti, active professors and high-ranking university functionaries—in other words, people with long careers in universities and research who understand academic work. As a result, in Mexico, research institutions and the allocation of funds are highly affected by the arrival of a new administration and its priorities. “We have not received any money for research since the beginning of the year,” said Laura Trejo. “The new administration has not appointed the person in the Ministry of Education who is in charge of transferring the money.” Without the stable guarantee of funding and support for research in Mexico, many Mexican scholars prefer to embed themselves in a more stable environment that rewards independent long-term research, such as in the U.S. or Europe. Salaries are a third important reason. In Mexico, as in many other countries, there are large discrepancies in salary among institutions. In the *Centro de Investigación y Docencia Económicas* (Center for Research and Teaching Economics—CIDE) in Mexico City, a premier institution in social science, the salary of an assistant professor at the entry level is 29,524.59 pesos per month (the equivalent of approximately $2,362 dollars, or $28,344 per year). The average entry salary of an assistant professor in political science at the University of Texas at Austin is $85,022. Similarly, a researcher in medical sciences at the *Universidad Nacional Autónoma* (National Autonomous University—UNAM) in Mexico earns about 22,000 pesos monthly ($1,760, or $21,120 annually) while at UT Austin the average annual salary of an assistant professor in molecular genetics and microbiology is $79,817. The situation improves for very good senior professors. According to Xavier Soberón, general director of the *Instituto Nacional de Medicina Genómica*(National Institute of Genomic Medicine—INMEGEN). In Mexico City, a senior Mexican scientist at a premier institution might earn 100,000 pesos per month ($8,000). However, in other institutions, the salary could be no more 30,000 pesos ($2,400). At UT Austin, the average annual salary of a full professor in molecular genetics and microbiology is $156,627, but it can go up to $301,122. Gorodezky earns 15,000 pesos a month (about $1,200). She receives an additional stipend of 21,000 pesos ($1,680) from the SNI, for a total of $2,880 per month. At the most, this is the low salary of an assistant professor in the U.S.; hardly the level of reward and recognition that a highly respected, published senior scholar would receive in the U.S. or in many developed countries. The issue goes beyond take-home pay. Tenure-track positions at U.S. universities also often come with good quality of life, employment stability, a clear route for professional development, and adequate pensions. In Mexico, people have *definitividad* (a sort of tenure) but the appointment is less stable. Fourth, many Mexican scholars are leaving the country (or not returning home) for security reasons. According to a survey conducted by Camelia Tigau, a professor at UNAM, of 148 highly skilled Mexican workers surveyed on all five continents, 113, or 76 percent, asserted that insecurity and the threat of violence was a direct or indirect reason for their decision to live in other countries.

### AT: Racist Judges

#### No link – the judge literally can’t deport the defendant since deportation was never meant to be a part of the original sentence.

#### Extend EJI – overwhelming power being granted to prosecutors in the squo outweighs some racist judges.

### AT: Racist Juries

#### No link – the case gets heard by a judge and can be appealed. Hollingsworth 14

Hollingsworth, Gabrielle. “Find the Right Lawyer Now! Choose Your Legal Category:” *How Is Immigration Court Different from Other Courts? | LegalMatch Law Library*, 14 July 2014, www.legalmatch.com/law-library/article/how-is-immigration-court-different-from-other-courts.html. LegalMatch Legal Writer and Attorney at Law. //nhs-VA

Who Is the Decision Maker in Immigration Court? Immigration court operates without a jury. In its place, the judge makes a decision after hearing arguments from you and from the opposing attorney, who represents the government. These judges are appointed by the DOJ, and are not subject to any other approval or popular vote. What If I Believe There Was an Error in the Judge’s Decision? You can appeal the decision of the immigration court judge. This appeal does not go to another court, but instead goes to the Board of Immigration Appeals (BIA). Here, a panel of 1 to 3 judges will review your case and either uphold the judge’s decision or overturn it. It is possible to appeal the BIA’s decision, at which point your case would move out of the immigration court system and into the federal appellate court system. How Should I Prepare for Immigration Court? Despite these differences, immigration court functions much as a regular court does. It is important to carefully prepare just as you would for any other court case. The Immigration Court strongly recommends that you hire an experienced immigration attorney to represent you before the court.

### AT: Circumvention

#### Even if more plea bargaining occurs, more deportations certainly don’t – only noncitizens can get deported. Wernick 16

Wernick, Allan. “Naturalized U.S. Citizens Can’t Be Deported, Even for Crimes.” NY Daily News, NEW YORK DAILY NEWS, 20 May 2016, www.nydailynews.com/naturalized-citizens-deported-crimes-article-1.2643570. Allan Wernick is an attorney and director of the City University of New York's Citizenship Now! project. //nhs-VA

Q. Is it true that a naturalized citizen cannot be deported for a crime committed after naturalizing? I have a nephew who was deported by ICE after he was convicted several times for drug possession. Could ICE have done that to a U.S. citizen? Name withheld, New York A. No. Naturalized citizens cannot be deported for actions taken, including criminal activity, after naturalizing. Sometimes the U.S. government discovers that a naturalized citizen committed a crime before naturalizing that would have barred the person from getting U.S. citizenship. In those cases, the government can deport the individual but only after taking away U.S. citizenship, a process called “denaturalization.” Taking away a person’s U.S. citizenship is difficult and rare. At one time, the law allowed for loss of U.S. citizenship through commission of what the law calls “an act of expatriation.” The government used to be able to take a person’s citizenship away for such acts as voting in a foreign election or joining a foreign government. Those rules no longer apply.

#### Alaska proves no circumvention – all forms of bargaining ceased; prefer this ev – it’s a long-term analysis. Blumstein et. al 83

Blumstein, Alfred, et al. Research on Sentencing The Search for Reform, Volume I. www.nap.edu/download/100. ALFRED BLUMSTEIN (Chair), School of Urban and Public Affairs, Carnegie- Mellon University. JACQUELINE COHEN, Consultant, School of Urban and Public Affairs, Carnegie-Mellon University. SUSAN E. MARTIN, Study Director. MICHAEL H. TONRY, Consultant, School of Law, University of Maryland //nhs-VA

Alaska is the only jurisdiction to attempt the statewide elimination of plea bargaining in all its variant forms. On July 3, 1975, effective August 15, 1975, the attorney general of Alaska ordered state prosecutors to desist from plea bargaining and sentence recommendations. Charge dismissals or reductions as inducements to guilty pleas were later forbidden, but unilateral charge dismissals for good-faith professional reasons were permitted. The Alaska Judicial Council evaluated the impact of the abolition in Anchorage, Fairbanks, and Juneau (Rubinstein et al., 1980). Case record data were collected on case dispositions in the 12-month periods before and after the ban, and interviews were conducted covering more extended periods. The credibility of the study's statistical analyses is doubtful, as are the conclusions deriving from the statistical data, but the rich interview data provide a firmer basis for most of the study's major conclusions. The study concluded that “plea bargaining as an institution was clearly curtailed” (Rubinstein et al., 1980:31). Sentence bargaining and prosecutorial sentence recommendations declined abruptly from 43.5 to 13.1 percent of all cases in the three jurisdictions. The interview data from judges, prosecutors, and defense attorneys supported the statistical indications that sentence bargaining had essentially ceased. The study concluded that charge bargaining also had substantially disappeared.

### AT: Ramey

#### Unhighlighted section of their Ramey ev says these types of plea deals are made in less than 1% of total cases, so the case massively outweighs.

Corinne **Ramey**, Reporter WSJ, 7-7-20**17**, "Some Prosecutors Offer Plea Deals to Avoid Deportation of Noncitizens ," WSJ, https://www.wsj.com/articles/some-prosecutors-offer-plea-deals-to-avoid-deportation-of-noncitizens-1499419802/ JG

” Mr. Fitton said. “The logic here is American citizens might be prosecuted more harshly for the same crimes.” Until this year, the approach of different charges for noncitizens was largely a California phenomenon. The San Francisco district attorney has no official policy but for at least a decade has offered some noncitizens pleas that help them avoid deportation, according to a spokesman. In 2011, the Santa Clara County District Attorney’s Office released a policy of taking immigration consequences into account. District Attorney Jeff Rosen said he was prompted by his own plea-negotiating experience, during which defense attorneys would ask for pleas that would help immigrants, many of whom were longtime residents with families, avoid deportation. After the policy came out, “I heard from colleagues, ‘You’re a Bay Area hippie liberal,’” Mr. Rosen said. He disputed the characterization—“I’m married and drive a gray Camry,” he said. But now he rarely gets such comments because such policies are more commonplace in California. Other California prosecutors offices followed. Alameda County, which includes Oakland, issued guidelines in 2012 instructing prosecutors to consider immigration consequences for lesser crimes. Back east, the Baltimore City State’s Attorney’s Office in April told employees to consider immigration consequences when prosecuting low-level, nonviolent crimes. Last month, the office held a mandatory training session for prosecutors on how certain pleas affect noncitizen defendants, State’s Attorney Marilyn Mosby said. Also this year, the Manhattan district attorney’s office, which has no official policy, created a yet-unfilled position dubbed the Collateral Consequences Counsel. “I submit today that **if two New Yorkers commit the same low-level violation**, and **the** practical **consequence** **for** **one** of the New Yorkers **is a ticket** or a couple of days in jail, while **the** consequence for the **other** New Yorker **is to be taken from** her **family** **and** **shipped** **off to a foreign country, that is not equal justice under law**,” District Attorney Cyrus Vance Jr. said in May. Approaches to such policies differ. In Santa Clara County, someone who pleads to a lower charge often gets a stiffer sentence. A noncitizen accused of shoplifting whose charge is reduced from petty theft to “trespass to interfere with business” might get extra time in a work program. The office estimates it modifies a plea or sentence for immigration reasons from 300 to 400 times a year, or in less than 1% of total cases, Mr. Rosen said. The policy had been largely uncontroversial until April, when a public outcry followed an article in online publication the Daily Beast about a case in which an Indian green-card holder was accused by his wife, a citizen, of domestic violence. “Please don’t do this,” the wife, an engineer, cries repeatedly in a video she recorded on her iPhone, followed by smacking sounds in the background. Santa Clara prosecutors charged the man, also an engineer, with two counts of felony domestic violence, which could have resulted in his deportation. He later pleaded to lesser charges of felony accessory and misdemeanor domestic battery. “They should have just charged him with what he did,” said Michael Pascoe, an attorney for the woman. Michael Paez, an attorney for the man, said the evidence against his client was inconsistent. Mr. Rosen said that although immigration status was one factor in the plea agreement, prosecutors were concerned they lacked the evidence to prove the initial charges at trial. Some offices with such policies say such discretion isn’t limited to immigration, and they consider the effects of pleas on other circumstances, like employment or ability to attend college. Such policies are likely to continue to be subjects of discussion at prosecutors’ offices nationwide. In Denver, District Attorney Beth McCann weighed adopting a policy of considering immigration consequences but struggled with concerns that it wouldn’t apply justice fairly, a spokesman said. “Why would you treat an undocumented member of the community better than an American citizen?” said the spokesman, Ken Lane. “She hasn’t resolved that issue in terms of a formal policy.”

### AT: Deportations Turn

#### Prefer Williams and Musgrave – it’s more recent, specific about Sessions bringing a new wave of deportations, and their ev only accounts for cases where deportation is part of the sentence.

#### Deportations up – this ev directly answers their warrants. Burnett 1/23

Burnett, John. “Trump's ICE Deportations Are Up From Obama's Figures, Data Show.” NPR, NPR, 23 Jan. 2018, www.npr.org/2018/01/23/579884642/trumps-ice-deportations-increase-from-obamas-figures-data-show. John Burnett is the Southwest Correspondent, National Desk. //nhs-VA

Year-end figures analyzed by NPR show deportations to all countries — from the Middle East to Africa to Asia — have increased sharply under President Trump compared to Obama's last year in office. DAVID GREENE, HOST: You know, we hear a lot about Mexican and Central American immigrants picked up and deported by officers from the Immigration and Customs Enforcement, or ICE. But our colleague John Burnett has been digging into the statistics from 2017, focusing on other countries from the Middle East to Africa to Asia. And it turns out deportations to many of those countries increased sharply in President Trump's first year compared to the year before. John joins us from Austin, Texas. Hey there, John. JOHN BURNETT, BYLINE: Morning, David. GREENE: So as you've been crunching these numbers, what exactly is standing out to you here? BURNETT: Well, we know in recent years the same poor countries dominate deportations - Mexico, Guatemala, El Salvador and Honduras. They do account for 9 out of 10 deportations. But the interesting news is in the other 186 countries in the list. The number of deportees from other nations rose 24 percent in Trump's first year, really big increases from all sorts of foreign nationals around the globe who were living in the U.S. illegally. Deportations to Brazil and China jumped. Removals of Somalis nearly doubled. Deportations to Ghana and West Africa are up more than two times. The biggest increase is Haiti. The number of deported Haitians soared from 300 in 2016 to more than 5,500 last year. And the reason is that thousands of Haitians who'd been living in South America rushed to the U.S.-Mexico border and crossed at California and Arizona. They mistakenly thought they could get humanitarian relief. But that wasn't the case. They got locked up and then deported. GREENE: So you're really getting beneath the headlines here because there have been headlines about how the overall number of deportations under President Trump actually went down. But you're focusing on these other countries. And where you dig deeply, you see this increase. So explain that for us, if you can. BURNETT: Right. Well, first of all, the overall deportations went down because fewer people, mainly from Latin America, were trying to cross the southwest border. They call it the Trump effect. So we're talking about the other 10 percent here. And I think there are two things that are happening for the jump in deportations. First, so-called recalcitrant countries that used to refuse to accept deportees from the U.S. are now repatriating them. And the Trump administration is proud of this. And they feel like it's an untold story that they made these agreements with these countries. So we're seeing big increases of deportees to places like Somalia, Guinea, Cuba, Bangladesh, Iraq, Afghanistan. For instance, with Iraq, the administration took it off the travel ban list in return for the country agreeing to repatriate its people. And the second thing I think that's going on is ICE agents are just more aggressive, as we've reported all last year. Here's Jessica Vaughan. She's policy director for the Center for Immigration Studies, which supports Trump's get tough immigration policies. JESSICA VAUGHAN: Interior enforcement has been stepped up under the Trump administration. And so they are encountering more targets for deportation who are visa overstays. And they come from all over the world.

#### Deportations through actual trials are difficult, which is why Sessions is trying to bypass the courts. Nolo n.d.

“Immigration Court Defenses: Avoid Deportation.” Www.nolo.com, www.nolo.com/legal-encyclopedia/immigration-court-defenses-avoid-deportation. //nhs-VA

Although U.S. immigration law allows only narrow categories of people to remain in the U.S. and receive green cards (or keep the green card they already have), the law provides more ways to fight against removal than you might think. Many applicants don't realize that they qualify for remedies such asylum, withholding of removal, cancellation of removal, or some other. At the very least, "voluntary departure" as a way of leaving the U.S. can avoid some of the harsh consequences of deportation. Learn more about the possibilities here. Defenses an Undocumented Immigrant Can Raise Possible Defenses to Deportation of an Undocumented Alien If you are “undocumented” and you are in “removal” proceedings, a few legal defenses are available. These might make it possible for you to avoid being removed (deported). In Removal Proceedings: Who Can Apply for Adjustment of Status Based on Family? If you are undocumented but recently married a U.S. citizen or your Priority Date to immigrate through a family member has become current, you may be able to adjust status (get a green card) while in removal proceedings. Green Card Through Cancellation of Removal (Non-LPR): Who Qualifies? If you've lived in the U.S. for ten years, have good moral character, and meet other requirements, you may be able to defend against deportation and receive a green card. How to Apply for Prosecutorial Discretion Undocumented immigrants in removal proceedings have an opportunity to request that the case be closed as a low enforcement priority. Applying for a Family-Based Petition and I-601A Waiver Instead of Cancellation of Removal An I-601A waiver may be a better option than cancellation of removal. Can I Be Granted Cancellation of Removal (Non-LPR) If My Qualifying Relative Child Turns 21? The problem of losing eligibility for a green card through cancellation of removal because of your child's age. **Asking for Voluntary Departure** Voluntary Departure: Who Is Eligible? If you are unlikely to succeed in any defense against removal from the U.S., voluntary departure may at least allow you to leave (on your own) with reduced consequences for your future immigration chances. Why Request Voluntary Departure Instead of Removal? If you have no hope of being allowed to remain in the U.S., but might want to return in the future, voluntary departure is a useful option. Voluntary Departure: What Happens If You Don't Leave the United States? Ignoring an order of voluntary departure can bring the same penalties as an order of removal, and more. Defenses a Green Card Holder Can Make Cancellation of Removal for Green Card Holders: Who Is Eligible? Had a green card for more than seven years? You may be eligible to avoid removal for a crime or other violation. How to Apply for Cancellation of Removal (LPR) What to prepare and present to the job as evidence that you should not be deported from the U.S. Applying for a Waiver of Alien Smuggling If you risk losing your lawful permanent residence based on having helped others cross the U.S. border unlawfully, applying for a waiver may help you gain the right to remain.

#### The pervasiveness of racism makes deportations inevitable unless we take them off the table.

Kelly Lytle Hernandez, 17 (, America's mass deportation system is rooted in racism, Conversation, http://theconversation.com/americas-mass-deportation-system-is-rooted-in-racism-73426) zh 2-4-2018

A rowdy segment of the American electorate is hell-bent on banning a specific group of immigrants from entering the United States. Thousands upon thousands of other people – citizens and immigrants, alike – oppose them, choosing to go to court rather than fulfill the electorate’s narrow vision of what America should look like: white, middle-class and Christian. Soon a series of U.S. Supreme Court rulings could grant unrestrained power to Congress and the president over immigration control. More than 50 million people could be deported. Countless others might be barred from entering. Most of them would be poor, nonwhite and non-Christian. This may sound like wild speculation about what is to come in President Donald Trump’s America. It is not. It is the history of U.S. immigration control, which is the focus of my work in the books “Migra! A History of the U.S. Border Patrol” and “City of Inmates: Conquest, Rebellion, and the Rise of Human Caging in Los Angeles.” Historically speaking, immigration control is one of the least constitutional and most racist realms of governance in U.S. law and life. Made in the American West The modern system of U.S. immigration control began in the 19th-century American West. Between the 1840s and 1880s, the United States government warred with indigenous peoples and Mexico to lay claim to the region. Droves of Anglo-American families soon followed, believing it was their Manifest Destiny to dominate land, law and life in the region. But indigenous peoples never disappeared (see Standing Rock) and nonwhite migrants arrived (see the state of California). Chinese immigrants, in particular, arrived in large numbers during the 19th century. A travel writer who was popular at the time, Bayard Taylor, expressed the sentiment settlers felt toward Chinese immigrants in one of his books: “The Chinese are, morally, the most debased people on the face of the earth… their touch is pollution… They should not be allowed to settle on our soil.” When discriminatory laws and settler violence failed to expel them from the region, the settlers pounded Congress to develop a system of federal immigration control. In response to their demands, Congress passed the 1882 Chinese Exclusion Act, which prohibited Chinese laborers from entering the country for 10 years. The law focused on Chinese laborers, the single largest sector of the Chinese immigrant community. In 1884, Congress required all Chinese laborers admitted before the Exclusion Act was passed to secure a certificate of reentry if they wanted to leave and return. But, in 1888, Congress banned even those with certificates from reentering. Illustration, ‘How John may dodge the exclusion act’ shows Uncle Sam’s boot kicking a Chinese immigrant off a dock. Library of Congress Then, when the Chinese Exclusion Act was set to expire in 1892, Congress passed the Geary Act, which again banned all Chinese laborers and required all Chinese immigrants to verify their lawful presence by registering with the federal government. The federal authorities were empowered by the law to find, imprison and deport all Chinese immigrants who failed to register by May 1893. Together, these laws banned a nationally targeted population from entering the United States and invented the first system of mass deportation. Nothing quite like this had ever before been tried in the United States. Chinese immigrants rebelled against the new laws. In 1888, a laborer named Chae Chan Ping was denied the right of return despite having a reentry certificate and was subsequently confined on a steamship. The Chinese immigrant community hired lawyers to fight his case. The lawyers argued the case up to the U.S. Supreme Court but lost when the court ruled that “the power of exclusion of foreigners [is an] incident of sovereignty belonging to the government of the United States” and “cannot be granted away or restrained on behalf of anyone.” Simply put, Chae Chan Ping v. U.S. established that Congress and the president hold “absolute” and “unqualified” authority over immigrant entry and exclusion at U.S. borders. Chinese exclusion cases Despite this loss, Chinese immigrants refused to comply with the 1892 Geary Act, submitting themselves for arrest and risking both imprisonment and deportation rather than registering with the federal government. They also hired some of the nation’s best constitutional lawyers. Together, they swarmed the courts with challenges to the Geary Act. In May 1893, the U.S. Supreme Court agreed to hear its first deportation case, Fong Yue Ting v. U.S. and quickly ruled that deportation is also a realm of “absolute” authority held by Congress and the president. The court wrote: “The provisions of the Constitution, securing the right of trial by jury and prohibiting unreasonable searches and seizures, and cruel and unusual punishments, have no application.” In other words, the U.S. Constitution did not apply to deportation. Immigration authorities could develop practices to identify, round up and deport noncitizens without constitutional review. It was a stunning ruling even by 19th-century standards. So stunning that three of the justices issued scathing dissents, arguing that the U.S. Constitution applies to every law enforced within the United States. As Justice Brewer put it: “The Constitution has potency everywhere within the limits of our territory, and the powers which the national government may exercise within such limits are those, and only those, given to it by that instrument.” But such dissent held no sway. Six years later, the U.S. Supreme Court tripled down on immigration control as exempt from judicial review. In that 1896 ruling, Wong Wing v. U.S., which was issued on the same day as the court upheld racial segregation laws in its infamous Plessy v. Ferguson decision, the court held that the Constitution does not apply to the conditions of immigrant detention. By 1896, the U.S. Supreme Court had granted Congress and the president nearly unrestrained power over excluding, deporting and detaining noncitizens, both at U.S. borders and within the national territory. To date, they have used that authority to deport and forcibly remove more than 50 million people and ban countless others from entering the country. Most of them are nonwhite, many of them poor and a disproportionate share non-Christian. Making America great again Over time, Congress and the courts placed several limits on what is allowable in immigration control. For example, the 1965 Immigration Reform Act prohibits discrimination on the basis of “race, gender, nationality, place of birth, or place of residence.” And several court rulings have added a measure of constitutional protections to deportation proceedings and detention conditions. But, in recent weeks, Trump and his advisers have tapped into the foundational architecture of U.S. immigration control to argue that the president’s executive orders on immigration control are “unreviewable” by the courts. As Trump’s senior advisor Stephen Miller put it: The president’s executive powers over immigration control “will not be questioned.” On Feb. 9, the U.S. Court of Appeals for the Ninth Circuit turned down the administration’s “unreviewable” argument regarding the so-called Muslim ban. But Trump’s immigration enforcement order still stands. This includes a provision that subjects even those unauthorized immigrants who are simply suspected of crime to immediate removal. It also denies many of the immigrants who unlawfully cross our borders the due process protections recently added to deportation proceedings. If implemented as promised – that is, with a focus on “bad hombres” and the U.S.-Mexico border – Trump’s immigration plan will exacerbate the already disproportionate impact of U.S. immigration control on Latino immigrants, namely Mexicans and Central Americans. U.S. immigration may no longer target Chinese immigrants, but it remains one of the most highly racialized police projects within the United States. Trump’s executive orders are pulling U.S. immigration control back to its roots, absolute and racial. The U.S. Court of Appeals for the Ninth Circuit pushed back against this interpretation, affirming the reviewability of the seven-country ban. But the decisions made during the Chinese exclusion era are likely to protect many of the president’s other orders from judicial review. That is, unless we overturn the settler mentality of U.S. immigration control.

### AT: Indefinite Pre-trial

#### [Brentwood Robbins] Your evidence:

Limbo does not jeopardize all immigrants facing deportation as many are still able to work under existing permits until their cases can be heard. The delays might even provide some immigrants with weaker petitions more time to build a stronger case

#### Case O/W – it’s not quantifiable how much *more* the aff can burden a clogged court; at worst, a few weeks of waiting is added to every case but that’s comparatively better than noncitizens taking deportation.

#### Case solves – the plan sparks quick local reforms that can tackle backlog like ICE prioritization and resource reallocation; empirically proven to spill up – that’s Cade.

#### ICE reforms solve the backlog – prevents packing. Huettman 7/19

Huettman, Melanie. “The Causes of Our Immigration Court Backlog, and How We Can Fix It.” Niskanen Center, 19 July 2017, niskanencenter.org/blog/causes-immigration-court-backlog-can-fix-2/. //nhs-VA

There are a few things the Trump administration could do to reduce the backlog and improve the immigration court system. First, the administration should focus its resources on increasing the number of immigration judges. This would not only reduce the backlog, but also help alleviate the pressure on the existing judges, and allow them to focus more on individual cases rather than speeding through them. Second, the administration should ensure that Immigration and Customs Enforcement (ICE) is prioritizing criminals and dangerous undocumented immigrants rather than targeting all undocumented individuals. By focusing enforcement resources on removing only those who commit crimes and pose a real danger to society, the administration would not only further its goal of making our country safer, it would also reduce the backlog. Third, as the American Bar Association and the President of the National Association of Immigration Judges, the Hon. Dana Leigh Marks, suggested, it could be beneficial if Congress were to remove the immigration court system from under the Department of Justice and allow it to be its own system, like the current system of bankruptcy courts. This idea was first introduced in 1981 by the Select Commission on Immigration and Refugee Policy. The new system would still handle immigration issues, but the judges would have more control over the system and their own dockets. It would also allow for the creation of both a trial and appellate division to better resolve any errors made during cases, as well as provide national, binding caselaw. Additionally, separating them from the Department of Justice would reduce much of the politicization entrenched within the system. Many of President Trump’s current immigration policies serve only to further strain an already overburdened system. By increasing the number of immigration judges and enforcing removal priorities, the backlog could be alleviated, hundreds of thousands of immigrants could be saved from years of waiting, and we could get dangerous criminals off of the streets. The administration should craft its policies to solve the real problems at hand rather than making them worse.

### Add-On: Bad Pleas

### Add-On: Economy

#### Mass deportations coming – judge quotas. Helm 4/3

Helm, Angela. “Deport Dem! Trump Administration Imposes Quotas on Immigration Judges.”The Root, Www.theroot.com, 3 Apr. 2018, www.theroot.com/deport-dem-trump-administration-imposes-quotas-on-immi-1824293202. Ms. Bronner Helm is Contributing Editor at The Root. //nhs-VA

On Friday, the U.S. Justice Department, under Jefferson Beauregard Sessions, notified all U.S. immigration judges that their job-performance evaluations will be tied to how quickly they close cases, saying that the aim is to reduce a lengthy backlog of deportation decisions. Sessions says that the current backlog allows those facing charges to stay in the U.S. longer than they should, though most languish in substandard detention centers. The stated reason for the new policy is to reduce backlog, yet the effect will surely be higher rates of deportations. Unlike judges in regular courts, immigration judges work for the executive branch and, in this case, the Justice Department. Since he’s taken office, Donald Trump’s administration has also sought to expand “expedited removal orders,” which currently are used if individuals are arrested within 100 miles of U.S. borders and if they’ve been inside the U.S. two weeks or less. They do not see a judge. [USA Today reports](https://www.usatoday.com/pages/interactives/graphics/deportation-explainer/) that the Trump recommendation for expansion includes making expedited removal nationwide (that is, you can face it if you are caught anywhere within the U.S.), and used if persons have been in the U.S. less than two years. The new standards for immigration judges will go into effect Oct. 1, [according to the Wall Street Journal](https://www.wsj.com/articles/immigration-judges-face-new-quotas-in-bid-to-speed-deportations-1522696158). It reports: Under the new quotas, judges will be required to complete 700 cases a year and to see fewer than 15 percent of their decisions sent back by a higher court. Over the past five years, the average judge completed 678 cases in a year, said Justice Department spokesman Devin O’Malley. But there was a range, he said, with some judges completing as many as 1,500 cases in a year. In addition, they will be required to meet other metrics, depending on their particular workload. One standard demands that 85 percent of removal cases for people who are detained be completed within three days of a hearing on the merits of the case. Another metric demands that 95 percent of all merits hearings be completed on the initial scheduled hearing date.

#### Deportation triggers massive economic downturn and tanks GDP – prefer this ev, it’s an industry and state level analysis. Edwards and Ortega 16

Edwards, Ryan, and Francesc Ortega. “The Economic Impacts of Removing Unauthorized Immigrant Workers.” Center for American Progress, Center for American Progress, 21 Sept. 2016, 3:00 AM, www.americanprogress.org/issues/immigration/reports/2016/09/21/144363/the-economic-impacts-of-removing-unauthorized-immigrant-workers/. Ryan D. Edwards is associate professor of economics at Queens College in the City University of New York. Francesc Ortega is Dina Axelrad Perry associate professor in economics at Queens College in the City University of New York. //nhs-VA

In every state and in every industry across the United States, immigrants—authorized and unauthorized—are contributing to the U.S. economy. Immigrant labor and entrepreneurship are believed to be powerful forces of economic revitalization for communities struggling with population decline. Estimates suggest that the total number of unauthorized immigrants currently residing in the United States is approximately 11.3 million, or about 3.5 percent of the total 2015 resident population of 324.4 million. Of those 11.3 million, we estimate that 7 million are workers. What is the economic contribution of these unauthorized workers? What would the nation stand to lose in terms of production and income if these workers were removed and returned to their home countries? The main findings of this report are as follows: A policy of mass deportation would immediately reduce the nation’s GDP by 1.4 percent, and ultimately by 2.6 percent, and reduce cumulative GDP over 10 years by $4.7 trillion**.** Because capital will adjust downward to a reduction in labor—for example, farmers will scrap or sell excess equipment per remaining worker—the long-run effects are larger and amount to two-thirds of the decline experienced during the Great Recession. Removing 7 million unauthorized workers would reduce national employment by an amount similar to that experienced during the Great Recession. Massdeportation would cost the federal government nearly $900 billion in lost revenue over 10 years**.** Federal government revenues are roughly proportional to GDP, while federal spending is less responsive. A conservative estimate suggests that annual revenue losses would start at $50 billion and accumulate to $860 billion over a 10-year period. With associated increases in interest payments, removal\* would thus raise the federal debt by $982 billion by 2026 and increase the debt-to-GDP ratio, a common measure of fiscal sustainability, by 6 percentage points over the same time period. Unsustainably high levels of the debt-to-GDP ratio may ultimately raise interest rates and choke off economic growth. Hard-hit industries would see double-digit reductions in their workforces. Unauthorized workers are unevenly spread across industries, with the highest concentrations employed in agriculture, construction, and leisure and hospitality. Those three industries would be hit hardest by a removal policy, experiencing workforce reductions of 10 percent to 18 percent, or more. Other industries would also experience reductions in output due to a mass deportation policy. The largest declines in GDP would occur in the largest industries, not in immigrant-heavy industries**.** Because industries also vary in size, the losses in value added to the national GDP stemming from removal occur across many industries that are not usually associated with unauthorized labor. The three largest U.S. industries in terms of value added are financial activities, manufacturing, and wholesale and retail trade. Annual long-run GDP losses in those industries would reach $54.3 billion, $73.8 billion, and $64.9 billion, respectively, the three largest effects among the 12 private-sector industries. States with the most unauthorized workers will experience the largest declines in state GDP. We estimate that GDP in California, for example, will ultimately fall by $103 billion annually—or roughly a 5 percent drop—if mass deportation occurs. Large declines will also occur in other states such as Texas, New York, and New Jersey, with the effects spread across industries.

#### Slowing growth causes conflict – this is specifically true under Trump since the economy is the only thing keeping him afloat. Foster 16

Foster 12/16 - Dennis M. Foster is professor of international studies and political science at the Virginia Military Institute. “Would President Trump go to war to divert attention from problems at home?” December 19, 2016, Washington Post Monkey Cage Blog, https://www.washingtonpost.com/news/monkey-cage/wp/2016/12/19/yes-trump-might-well-go-to-war-to-divert-attention-from-problems-at-home/?utm\_term=.9ac2999a0f48) LADI

Then-Republican presidential candidate Donald Trump gives a speech aboard the World War II battleship USS Iowa in San Pedro, Calif., in September, 2015. (Robyn Beck/AFP/Getty Images) If the U.S. economy tanks, should we expect Donald Trump to engage in a diversionary war? Since the age of Machiavelli, analysts have expected world leaders to launch international conflicts to deflect popular attention away from problems at home. By stirring up feelings of patriotism, leaders might escape the political costs of scandal, unpopularity — or a poorly performing economy. One often-cited example of diversionary war in modern times is Argentina’s 1982 invasion of the Falklands, which several (though not all) political scientists attribute to the junta’s desire to divert the people’s attention from a disastrous economy. In a 2014 article, Jonathan Keller and I argued that whether U.S. presidents engage in diversionary conflicts depends in part on their psychological traits — how they frame the world, process information and develop plans of action. Certain traits predispose leaders to more belligerent behavior. Do words translate into foreign policy action? One way to identify these traits is content analyses of leaders’ rhetoric. The more leaders use certain types of verbal constructs, the more likely they are to possess traits that lead them to use military force. [Trump may put 5 former top military brass in his administration. That’s unprecedented.] For one, conceptually simplistic leaders view the world in “black and white” terms; they develop unsophisticated solutions to problems and are largely insensitive to risks. Similarly, distrustful leaders tend to exaggerate threats and rely on aggression to deal with threats. Distrustful leaders typically favor military action and are confident in their ability to wield it effectively. Thus, when faced with politically damaging problems that are hard to solve — such as a faltering economy — leaders who are both distrustful and simplistic are less likely to put together complex, direct responses. Instead, they develop simplistic but risky “solutions” that divert popular attention from the problem, utilizing the tools with which they are most comfortable and confident (military force). [Will Beijing cut Trump some slack after that phone call with Taiwan?] Based on our analysis of the rhetoric of previous U.S. presidents, we found that presidents whose language appeared more simplistic and distrustful, such as Harry Truman, Dwight Eisenhower and George W. Bush, were more likely to use force abroad in times of rising inflation and unemployment. By contrast, John F. Kennedy and Bill Clinton, whose rhetoric pegged them as more complex and trusting, were less likely to do so. What about Donald Trump? Since Donald Trump’s election, many commentators have expressed concern about how he will react to new challenges and whether he might make quick recourse to military action. For example, the Guardian’s George Monbiot has argued that political realities will stymie Trump’s agenda, especially his promises regarding the economy. Then, rather than risk disappointing his base, Trump might try to rally public opinion to his side via military action. I sampled Trump’s campaign rhetoric, analyzing 71,446 words across 24 events from January 2015 to December 2016. Using a program for measuring leadership traits in rhetoric, I estimated what Trump’s words may tell us about his level of distrust and conceptual complexity. The graph below shows Trump’s level of distrust compared to previous presidents. These results are startling. Nearly 35 percent of Trump’s references to outside groups paint them as harmful to himself, his allies and friends, and causes that are important to him — a percentage almost twice the previous high. The data suggest that Americans have elected a leader who, if his campaign rhetoric is any indication, will be historically unparalleled among modern presidents in his active suspicion of those unlike himself and his inner circle, and those who disagree with his goals. As a candidate, Trump also scored second-lowest among presidents in conceptual complexity. Compared to earlier presidents, he used more words and phrases that indicate less willingness to see multiple dimensions or ambiguities in the decision-making environment. These include words and phrases like “absolutely,” “greatest” and “without a doubt.” A possible implication for military action I took these data on Trump and plugged them into the statistical model that we developed to predict major uses of force by the United States from 1953 to 2000. For a president of average distrust and conceptual complexity, an economic downturn only weakly predicts an increase in the use of force. But the model would predict that a president with Trump’s numbers would respond to even a minor economic downturn with an increase in the use of force. For example, were the misery index (aggregate inflation and unemployment) equal to 12 — about where it stood in October 2011 — the model predicts a president with Trump’s psychological traits would initiate more than one major conflict per quarter.

#### \*Deportations trigger massive labor shortage – that kills the economy. Ehrenfreund 16

Ehrenfreund, Max. “The Potentially Severe Consequences of Trump’s Deportation Plans.” The Washington Post, WP Company, 14 Nov. 2016, www.washingtonpost.com/news/wonk/wp/2016/11/14/what-donald-trumps-deportation-plans-would-do-to-american-businesses/?utm\_term=.ae4c8c2ca5f4. Max Ehrenfreund writes for Wonkblog and compiles Wonkbook, a daily policy newsletter. Before joining The Washington Post, Ehrenfreund wrote for the Washington Monthly and The Sacramento Bee. //nhs-VA

In an interview aired Sunday, Donald Trump told "60 Minutes” correspondent Lesley Stahl that he would deport as many as 3 million undocumented immigrants after he takes office next year. It remains to be seen whether the president-elect will fulfill this pledge, and if he does, how quickly he would seek to do so. In any case, two new analyses confirm that deportations could have severe consequences for the American economy. One of the analyses, released by the National Bureau of Economic Research on Monday, offers the first detailed estimates of how a policy of mass deportation would affect specific industries. The authors, Ryan Edwards and Francesc Ortega of Queens College, City University of New York, came up with a few unexpected results. Unsurprisingly, the greatest number of undocumented workers — 1.3 million — were employed in leisure and hospitality, followed by the construction sector, which employed 1.1 million. These two sectors were followed by professional and business services, which is not a sector often associated with unauthorized employment but included nearly 1 million undocumented workers, by Edwards and Ortega's estimate. The two economists relied on census data from 2011 to 2013 to estimate the number of undocumented workers in each industry. While the census does not ask respondents whether they are undocumented, the records do show when they arrived, what country they came from, and whether their occupation required a license — information that can be used to estimate the likelihood that a person is undocumented. According to a recent estimate from the Pew Research Center, there are about 8 million unauthorized workers in the United States in total. If all undocumented workers were immediately removed from the country, Edwards and Ortega forecast a decline of 9 percent in agricultural production and declines of 8 percent in construction and leisure and hospitality over the long term. These are the industries most dependent on undocumented labor. Relative to the overall economy, however, the most important effect would be a decline in manufacturing output of $74 billion over the long term, followed by somewhat more modest declines in wholesale and retail trade and financial activities. There are relatively few undocumented workers in the financial sector, but they make a disproportionate economic contribution. The sector employs just under 200,000 undocumented immigrants, but their weekly earnings are $1,132 on average — roughly twice the average across the economy for unauthorized workers, which is $581. “When we think about unauthorized immigrants, we tend to think about poor Mexican workers with low education in agriculture,” Edwards said. In other sectors, he added, “they're highly trained, highly paid professionals, so their removal has a pretty large effect.” Edwards and Ortega estimate that undocumented workers are responsible for about 3 percent of the U.S. economy overall. Deporting all of them would result in a substantial contraction. For his part, Trump has argued that removing immigrants will benefit U.S. workers who compete with them for employment. “The truth is, the central issue is not the needs of the 11 million illegal immigrants or however many there may be,” Trump said in August. “There is only one core issue in the immigration debate, and that issue is the well-being of the American people.” Most economists who have studied the effects of immigration have found only minimal effects on native-born workers' wages, and one recent review of the research concluded that those most negatively affected by immigration are immigrants already living in the country — who tend to be most similar to the new arrivals in terms of education and skills and thus compete with them most directly.

### Add-On: Agriculture

#### Mass deportations coming – judge quotas. Helm 4/3

Helm, Angela. “Deport Dem! Trump Administration Imposes Quotas on Immigration Judges.”The Root, Www.theroot.com, 3 Apr. 2018, www.theroot.com/deport-dem-trump-administration-imposes-quotas-on-immi-1824293202. Ms. Bronner Helm is Contributing Editor at The Root. //nhs-VA

On Friday, the U.S. Justice Department, under Jefferson Beauregard Sessions, notified all U.S. immigration judges that their job-performance evaluations will be tied to how quickly they close cases, saying that the aim is to reduce a lengthy backlog of deportation decisions. Sessions says that the current backlog allows those facing charges to stay in the U.S. longer than they should, though most languish in substandard detention centers. The stated reason for the new policy is to reduce backlog, yet the effect will surely be higher rates of deportations. Unlike judges in regular courts, immigration judges work for the executive branch and, in this case, the Justice Department. Since he’s taken office, Donald Trump’s administration has also sought to expand “expedited removal orders,” which currently are used if individuals are arrested within 100 miles of U.S. borders and if they’ve been inside the U.S. two weeks or less. They do not see a judge. [USA Today reports](https://www.usatoday.com/pages/interactives/graphics/deportation-explainer/) that the Trump recommendation for expansion includes making expedited removal nationwide (that is, you can face it if you are caught anywhere within the U.S.), and used if persons have been in the U.S. less than two years. The new standards for immigration judges will go into effect Oct. 1, [according to the Wall Street Journal](https://www.wsj.com/articles/immigration-judges-face-new-quotas-in-bid-to-speed-deportations-1522696158). It reports: Under the new quotas, judges will be required to complete 700 cases a year and to see fewer than 15 percent of their decisions sent back by a higher court. Over the past five years, the average judge completed 678 cases in a year, said Justice Department spokesman Devin O’Malley. But there was a range, he said, with some judges completing as many as 1,500 cases in a year. In addition, they will be required to meet other metrics, depending on their particular workload. One standard demands that 85 percent of removal cases for people who are detained be completed within three days of a hearing on the merits of the case. Another metric demands that 95 percent of all merits hearings be completed on the initial scheduled hearing date.

#### It collapses the agricultural system and spikes food prices

Leanna Garfield 17 [(Leanna Garfield, ) ‘Our agricultural system would collapse’ if Trump starts mass deportations, says farm worker advocate, Business Insider 2-3-2017] AT

The Trump administration is considering plans to deport immigrants who rely on public assistance and restrict the flow of foreign-born workers, according to drafts of potential executive orders obtained by the Washington Post. Though the plans are merely under discussion, they reinforce Trump's commitment to anti-immigration policies — an agenda that also includes his proposed wall along the US-Mexico border and the deportation of undocumented immigrants. At a February 2 summit hosted by Food Tank, a nonprofit think tank focused on food policy, researchers, chefs, and policy makers expressed concern over the effects Trump's potential immigration restrictions could have on American farms. "If we were to engage in massive deportations, our agricultural system would collapse," said Bruce Goldstein, the president of Farmworker Justice, a nonprofit that aims to improve farmers' living and working conditions. Of the 1.5 to 2 million people working in agriculture today, at least 50% to 70% of farm workers are undocumented immigrants, according to a recent report by the American Farm Bureau Federation (AFBF). If the US were to deport a significant portion of them, the move could result in labor and food production shortages, Goldstein said. The Trump administration's draft plans follow up on his campaign promises to crack down on immigration as a way to protect and create jobs for American workers — Trump has suggested that low-skilled immigration has reduced wages and job availability for US citizens, and that current immigration policies to not sufficiently prioritize American jobs. (Studies have generally found that not to be true, however.) The AFBF report suggests that agricultural laborers would be hard to replace because of how grueling the work is —12-hour shifts in 100-degree weather (without overtime pay) are common. And relying on automated systems over human workers would be expensive for farm owners, especially on smaller farms, Goldstein says. A large-scale labor shortage could therefore lead to a 5% to 6% jump in food prices for consumers, the report says. "The majority of farm workers in this country are undocumented. We need them, we should respect them, and we should grant them the chance to have an immigration status and a path to citizenship," Goldstein said. "If we don't figure that out, agriculture is in trouble."

#### The US is key to global agriculture

WFP 10 [World Food Prize, “Chicago Council Wins Grant to Expand Global Agricultural Development Initiative,” Dec 23, 2010, pg. http://www.worldfoodprize.org/index.cfm?nodeID=24667&action=display&newsID=11003]

A number of policy developments indicate that the United States is beginning to recognize the transformational role agriculture can play in addressing the challenge of global poverty: President Obama called for a doubling of U.S. support for agricultural development in 2010 at the G-20 summit in April 2009; the U.S. Administration rolled out its initial strategic and implementation thinking on the Feed the Future initiative in May 2010; and both the House and Senate have considered legislation to enhance support for agricultural development. However, to ensure these advances are realized in a way that can have a tangible impact on global poverty during a time of economic uncertainty, further policy innovation, sustained political and financial support, and accountability of U.S. policy for agricultural development and food security is needed. “U.S. leadership is key to ensuring agricultural development receives the long-term policy attention and resources needed to reduce global poverty and hunger over the long term,” said Glickman. “The next three years will be critical in determining whether the new U.S. impetus for leadership in agricultural development and food security will become a prominent, effective, and lasting feature of U.S. development policy.” Over the last two years, food security has risen to the top of the agenda of global issues that need urgent national and international attention. Prompted by the food price crisis of 2008, the increase in the number of people living in abject poverty rose to over 1 billion in 2009, and the need to nearly double food production to meet global demand by 2050, world leaders are giving new attention to agricultural development in poor regions and the sufficiency and sustainability of the world’s food supply. “Agricultural development is the essential first step to alleviate extreme poverty and hunger in developing nations,” said Bertini. “We have the knowledge, tools and resources necessary to solve global hunger, but what is needed is sustained momentum in U.S. policy toward supporting agriculture as a poverty alleviation tool.”

#### That causes extinction. Headley 13

Headley 13 [(Joshua, founder of Deep Green Resistance environmental movement) “BREAKDOWN: Industrial Agriculture” Deep Green Resistance May 12 2013] LADI//AT

No civilization can avoid collapse if it fails to feed its population, largely because continued pressures on the system will result in the disintegration of central control as global conflicts arise over scarce necessities. [6] This process can occur rapidly and/or through a gradual breakdown. A likely scenario of rapid collapse would be the breakout of a small regional nuclear war – such as between Pakistan and India – which would create a “nuclear winter” with massive global consequences. If that could be avoided, then the threat of collapse will likely be more gradual through the continued decrease of marginal returns on food and essential services. As these crises continue to increase in frequency and severity, their convergences will usher in a period of prolonged global unrest. [7] This was directly seen as a result of the 2007-08 grain crisis in which many countries restricted exports, prices skyrocketed, and food riots broke out in dozens of countries. Many of those countries were located within the Middle East and are credited as the fundamental circumstances that gave way to the Arab Spring in 2011. This year the food price index is currently at 210 – a level believed to be the threshold beyond which civil unrest is probable. Further, the UN’s Food and Agriculture Organization is already reporting record high prices for dairy, meat, sugar and cereals and also warns – due to the reduced grain stocks from last year’s droughts – that prices can be expected to increase later this year as well. Another factor driving up the costs of food is the price of oil. Because the entire industrial agriculture process requires the use of fossil fuels, the high price of oil results in a corresponding rise in the price of food. The future of oil production and whether we have reached “peak oil” may still be a matter of contention for some, but the increasing reliance on extreme energy processes (tar sands, hydraulic fracturing, mountaintop removal, etc.) is a blatant indication that the days of cheap petroleum are over. This implies that costs for energy extraction, and therefore the price of oil and food, will only continue to rise dramatically in the foreseeable future. As the struggle for resources and security escalates, governments around the world will rely more heavily upon totalitarian forms of control and reinforcement of order, especially as civil unrest becomes more common and outside threats with other countries intensify. However, this is also likely to be matched by an increase in resistance to the demands of the socio-political-economic hierarchies.

### Add-On: Coercion

#### More innocent people are being coerced into accepting plea bargains than ever before due to an increase in prosecutorial power. Clarke 13

Clarke, Matthew. “Dramatic Increase in Percentage of Criminal Cases Being Plea Bargained.” Prison Legal News, Prison Legal News, Jan. 2013, www.prisonlegalnews.org/news/2013/jan/15/dramatic-increase-in-percentage-of-criminal-cases-being-plea-bargained/. //nhs-VA

Over the course of the past few decades there has been a significant increase in the percentage of criminal cases being plea bargained and a corresponding decrease in cases that are taken to trial. According to many legal experts, the driving force behind this change is an increase in prosecutorial power. Through the use of mandatory minimums and other sentencing enhancements, the power to sentence convicted defendants is passing from judges to prosecutors as legislators continue to pass laws that remove judges’ sentencing discretion but allow prosecutors to decide whether to charge defendants under harsh or more lenient statutes. The effect of these changes has been to increase the risk exposure of defendants going to trial, which creates a greater coercive effect for them to agree to plea bargains. “Judges have lost discretion, and that discretion has accumulated in the hands of prosecutors, who now have the ultimate ability to shape the outcome,” stated University of Utah law professor Paul Cassell, who was formerly a conservative federal judge and prosecutor. “With mandatory minimums and other sentencing enhancements out there, prosecutors can often dictate the sentence that will be imposed.” “We now have an incredible concentration of power in the hands of prosecutors,” noted former Assistant U.S. Attorney Richard E. Myers II, an associate professor of law at the University of North Carolina. He added that the scales of justice have been tipped so heavily in the prosecution’s favor that, “in the wrong hands, the criminal justice system can be held hostage.” According to some experts this has already occurred, resulting in a dramatic reduction in the percentage of cases being tried by a jury. Since 1977 the ratio of federal criminal defendants who opt for a jury trial has decreased from one in four cases (25%) to one in thirty-two (about 3%). The federal statistics are somewhat skewed by an increase in immigration cases for which trials are rare, but even state felony prosecutions – which do not involve immigration issues – show a substantial decrease in the percentage of criminal cases that go to trial. According to the National Center for State Courts, 8% of all state felony cases resulted in trials in 1976. By 2009 that percentage had fallen to 2.3%. The Center also found that, while caseloads tripled, the number of jury trials increased only slightly and the number of cases in which judges determine guilt or innocence declined sharply over the same time period. Those statistics were based on data from nine states which account for about a third of the nation’s population. Most of the nine states have mandatory minimum laws, sentencing guidelines or had enacted tougher sentencing laws. The U.S. Department of Justice’s Bureau of Justice Statistics determined that the ratio of plea bargains to trials doubled between 1986 and 2006 based upon partial state-felony prosecution data in a nationwide survey. The federal data also indicated a sharp reduction in the percentage of cases that were dismissed or ended in acquittals. In 2009, nine of ten cases resulted in a plea bargain while one in twelve ended in dismissal. From 1979 to 2009, the acquittal rate dropped from one acquittal per 22 guilty pleas to one in 212 guilty pleas. Ronald Wright, a Wake Forest University law professor and former federal prosecutor, believes that the steep decline in acquittals is caused, at least in part, because criminal defendants who might have winnable cases or are even innocent believe the risk of going to trial is too great, and thus are coerced into accepting plea bargains. Another factor that contributes to the increase in plea bargains is lengthy stints in jail for pre-trial detainees who can-not afford to make bond, who accept pleas in order to escape oppressive jail conditions. [See: PLN, Nov. 2012, p.1]. Additionally, overworked public defenders have an incentive to encourage defendants to take plea deals as a means of handling their large caseloads. Florida is one state where the coercive nature of harsher sentencing laws is especially apparent. In the 1990s, the Sunshine State greatly toughened its felony sentences. As a result, defendants who exercise their constitutional right to a jury trial can receive prison terms of up to 20 times those given to defendants who plead guilty. The reason for this disparity is that prosecutors often dismiss more serious charges that carry longer sentences as part of the plea bargaining process. This huge sentencing gap in plea bargained cases versus those that go to trial has led one prominent Florida criminal defense lawyer to pull out a calculator when speaking with a new client, to demonstrate the increased risk of going to trial. “They think I’m ready to charge them a fee, but I’m not,” said Denis M. deVlaming. “I tell them in Florida, it’s justice by mathematics.” Worse still, judges and prosecutors tend to become upset if a defendant maintains his or her innocence and demands a trial. This is especially true due to cuts to the courts’ and district attorney offices’ budgets, which makes judges and prosecutors increasingly determined to avoid costly, time-consuming trials. Of course defendants are not supposed to be penalized for exercising their constitutional right to a jury trial even in difficult budgetary times. Nonetheless, it happens.

### Add-On: Crash

#### Pushing deportation cases to trial jams immigration courts and pushes back against Trump’s agenda. Cordoba and Perez 17

Cordoba, Jose De, and Santiago Perez. “Mexicans Vow to Fight Trump by Jamming U.S. Courts.” MarketWatch, 11 Feb. 2017, 11:35 AM ET, www.marketwatch.com/story/mexicans-vow-to-fight-trump-by-jamming-us-courts-2017-02-11.

MEXICO CITY—Influential Mexicans are pushing an aggressive and perhaps risky strategy to fight a likely increase in deportations of their undocumented compatriots in the U.S.: jam U.S. immigration courts in hopes of causing the already overburdened system to break down. The proposal calls for advertising campaigns advising migrants in the U.S. to take their cases to court and fight deportation if detained. “The backlog in the immigration system is tremendous,” said former Foreign Minister Jorge Castañeda. The idea is to double or triple the backlog, “until Trump desists in this stupid idea,” he added. Castañeda is part of a group of Mexican officials, legislators, governors and public figures planning to meet with Mexican migrant groups Saturday in Phoenix to lay out plans to confront the Trump administration’s deportation policy. Mexico’s government hasn’t endorsed the strategy or the group’s Phoenix mission. But it recently allocated some $50 million to pay legal fees of undocumented migrants facing deportation, and President Enrique Peña Nieto has instructed the country’s 50 consulates in the U.S. to defend migrants. Mexico’s Foreign Ministry said late Thursday it has intensified efforts to protect Mexican migrants, “foreseeing the hardening of measures by immigration authorities in the U.S., as well as possible constitutional violations during raids or in due process.”

#### Ending plea bargaining can and will grind the system to a halt. This is a first step transformative change. Weil 12

Weil, Danny. “Widespread Use of Plea Bargains Plays Major Role in Mass Incarceration.”Truthout, 7 Nov. 2012, www.truth-out.org/news/item/12556-overwhelming-use-of-plea-bargains-plays-major-role-in-mass-incarceration. Danny Weil is a writer for Project Censored and Daily Censored. He received the Project Censored "Most Censored" News Stories of 2009-10 award for his article: "Neoliberalism, Charter Schools and the Chicago Model / Obama and Duncan's Education Policy: Like Bush's, Only Worse," published by Counterpunch, August 24, 2009. Dr. Weil has published more than seven books on education in the past 20 years. You can also read much more about the for-profit, predatory colleges in his writings found at Counterpunch.com, Dailycensored.com, dissidentvoice.com and Project Censored.com where he has covered the issue of the privatization of education for years. //nhs-VA

What Would Happen if Defendants Crashed the Court System by Refusing to "Plea Out"? As long as plea bargains are used as a club to coerce defendants into abdicating their right of the constitutional guarantee to a fair trial, the prison-industrial complex will continue to grow exponentially. Plea bargains are one big woodpile that serves to fuel the ever-expanding prison-industrial complex, rendering transparent the American political resolve to incarcerate more and more people even if it means bankrupting their municipalities, cutting education and devoting their budgets to subsidizing the for-profit prison industry. If this resolve represents the mens rea (criminal intent) of the political will for mass incarceration, then plea bargaining can be said to represent the actus reus, the physical act of carrying out the industrial carceral state. If plea bargains were eliminated, or even severely monitored and reduced, the states and the federal government would then be required to carry out their burden under the constitution of proving the guilt of a criminal defendant in accordance with the law. If this happened, there would be a whopping reduction in prosecutions, not to mention incarcerations. Such a shift would be an important step in ending the current carceral culture of mass confinement and cruelty. Michelle Alexander, a civil rights lawyer and bestselling author of the book, The New Jim Crow: Mass Incarceration in the Age of Colorblindness, recently wrote in The New York Times that in her phone call with Susan Burton, a formerly incarcerated woman who took a plea bargain for drug use, Burton asked: What would happen if we organized thousands, even hundreds of thousands, of people charged with crimes to refuse to play the game, to refuse to plea out? What if they all insisted on their Sixth Amendment right to trial? Couldn't we bring the whole system to a halt just like that? Believe me, I know. I'm asking what we can do. Can we crash the system just by exercising our rights? Burton has the right to ask this question. It took her 15 years after pleading to a drug charge to get her life back together. The organization she recently started, A New Way of Life, offers a much-needed lifeline to women released from prison. But it does much more than this: it is also helping to start a movement against plea bargaining and the restoration of the constitution as it applies to citizens. All of Us or None is another such group that is organizing formerly incarcerated people and encouraging them to demand restoration of their basic civil and human rights. But the question Burton asks remains: could criminal defendants really crash the system if they demanded their constitutional rights and refused to plea to crimes they did not commit? From the point of view of American University law professor Angela J. Davis, the answer is yes. The system of mass industrial incarceration is entirely dependent on the cooperation of those it seeks to control. If everyone charged with crimes suddenly exercised their constitutional rights, then there would not be enough judges, lawyers or prison cells to deal with the flood tide of litigation. As Davis notes, not everyone would have to join for the revolt to have an impact: "if the number of people exercising their trial rights suddenly doubled or tripled in some jurisdictions, it would create chaos." The entire carceral system is riddled with corruption and broken beyond comprehension. Davis and Burton might be right: crashing the judicial system by refusing to get roughhoused into phony plea bargain deals could be the most responsible route to cleaning up the courts and restoring constitutional rights. It is daunting, and it takes guts, but with more than 90 percent incarcerated for plea bargains, it is courage we need.

## T

### C/I – Abolish = Complete

#### Merriam Webster defines “abolish” as

“Abolish.” https://www.merriam-webster.com/dictionary/abolish. 12 Jan 2018. //nhs-VA

to end the observance or effect of (something, such as a law): to completely do away with (something)

#### I meet. The aff completely ends the observance of Sessions’ new deportation policy.

### C/I – Abolish = Modify

#### Perm do the CP: Abolish means modify. Court of Appeals of New Mexico 11

(STATE OF NEW MEXICO, Plaintiff-Appellee, v. FREDDIE BENJI MONTOYA, Defendant-Appellant. Docket No. 28,881 COURT OF APPEALS OF NEW MEXICO 150 N.M. 415; 2011-NMCA-074; 259 P.3d 820; 2011 N.M. App. LEXIS 60 May 27, 2011, Filed)

\*Brackets in original

{7} While Defendant correctly states the relevant holding in Garza, we disagree with his characterization of that holding. The Court in Garza sought to clarify what it perceived to be ambiguities in Barker v. Wingo, 407 U.S. 514 (1972), the United States Supreme Court's seminal decision concerning the right to speedy trial. Garza, 2009-NMSC-038, ¶ 15. The Court in Garza reviewed New Mexico case law and case law from federal appeals courts and stated that "[i]n light of the overwhelming consensus among the federal Circuit Courts of Appeals and our policy of providing a functional analysis based on the facts and circumstances of each case, we abolish the presumption that a defendant's right to a speedy trial has been violated based solely on the threshold determination that the length of delay is presumptively prejudicial." Id. ¶ 21 (internal quotation marks omitted). Although the Court used the term "abolish" in describing its holding, it nonetheless characterized its holding as "modify[ing]" New Mexico precedent on the issue. Id. ¶¶ 21, 22. As a result, we do not view Garza's holding as a "new rule" triggering an inquiry into whether it may be applied retroactively. See Kersey v. Hatch, 2010-NMSC-020, ¶ 16, 148 N.M. 381, 237 P.3d 683 (explaining that "a court establishes a new rule when its decision is flatly inconsistent with the prior governing precedent and is an explicit overruling of an earlier holding" (internal quotation marks omitted)).

### C/I – In

#### Merriam Webster defines “in” as

“In.” https://www.merriam-webster.com/dictionary/in. 12 Jan 2018. //nhs-VA

used as a function word to indicate limitation, qualification, or circumstance

alike *in* some respects

#### I meet. The aff eliminates a circumstance of plea bargaining within the CJS.

### C/I – Immigration Court = CJS

#### I meet. Nonfederal citizens are convicted of immigration offenses in the CJS. Cade 13

Cade, Jason A. “THE PLEA-BARGAIN CRISIS FOR NONCITIZENS IN MISDEMEANOR COURT.” Cardozo Law Review, 2013, www.cardozolawreview.com/content/34-5/CADE.34.5.pdf. Assistant Professor, University of Georgia Law School. A.B., University of North Carolina at Chapel Hill. J.D., Brooklyn Law School. Jason A. Cade joined the University of Georgia School of Law faculty in 2013 and was promoted to associate professor in the fall of 2017. He teaches Immigration Law and directs the school’s Community Health Law Partnership (Community HeLP) Clinic. //nhs-VA

Despite Congress’s multiplication of the *criminal* offenses that trigger deportation over the last fifteen years, the actual apprehension and removal of noncitizens with criminal records has presented a challenge, in part because the vast majority of criminal prosecutions occur in state and local courts.66 In the last decade, and particularly the last five years, the federal government has attempted to meet the challenge of enforcing immigration law against noncitizens with nonfederal convictions through a number of programs that increase Immigration and Customs Enforcement (“ICE”) access to state and local defendants.67 Federal funding for these interior enforcement programs reached $690.2 million in 2011, thirty times the amount appropriated in 2004.68 *ICE currently operates three major enforcement initiatives to identify noncitizens who encounter state and local criminal justice systems for possible criminal grounds of removal or immigration violations*: the Criminal Alien Program, Secure Communities, and certain section 287(g) programs. Although the various programs function differently, each relies to some degree on state and local law enforcement to facilitate ICE’s initiation of removal proceedings against noncitizen arrestees.

#### Noncitizens are tried under the INA in the CJS for deportable crimes.

John Scalia. Noncitizens in the Federal Criminal Justice System, 1984-94. Federal Justice Statistics Program. August 1996. Web. John Scalia is a BJS Statistician //nhs-VA

The Immigration and Nationality Act of 1990 authorizes the INS to apprehend and deport criminal aliens.\* The number of criminal aliens living in the United States is unknown. Identification of criminal aliens who are deportable requires cooperation between the INS and Federal, State, and local law enforcement agencies. INS generally relies upon these other law enforcement agencies to identify individuals who have come in contact with the criminal justice system and whom the agencies believe to be aliens. While aliens can be identified at different stages of the criminal justice process, INS tends to concentrate attention on those aliens who have been charged with, or convicted of, a deportable crime. Once a deportable alien is identified, INS issues a detainer. An alien under an INS detainer is deported after the criminal proceeding or sentence has been completed. INS reported that nearly 32,000 criminal aliens were deported during 1995. To address the increasing number of criminal aliens, INS developed a comprehensive strategy. INS’s Criminal Alien Apprehension Program, implemented in 1991, was designed (1) to improve INS’s reactive approach to identifying aliens charged with, or convicted of, a crime, and (2) to develop a more proactive approach for identifying criminals who are aliens by focusing law enforcement resources in areas of criminal activity with high concentrations of alien participants. In addition, INS submits information to the Federal Bureau of Investigation's National Crime Information Center (NCIC). NCIC is a national database for information on crime, particularly whether a person is wanted by law enforcement. INS reports information to NCIC on aliens under deportation orders for previous criminal activity as well as aliens who have entered the United States without inspection and for whom a warrant of deportation has been issued. Because these aliens are included in the NCIC system, many apprehensions result from routine traffic stops or relatively minor offenses. As of March 1994, INS had entered 2,640 aliens into the NCIC database. Of these 2,640 aliens, 344 were arrested by State and local police officers  199 were deported and 8 were placed under an INS detainer.

#### Immigration court falls in the criminal justice system for all practical purposes. Vazquez 10

Vazquez, Yolanda, "Advising Noncitizen Defendants on the Immigration Consequences of Criminal Convictions: The Ethical Answer for the Criminal Defense Lawyer, the Court, and the Sixth Amendment" (2010). Faculty Articles and Other Publications. Paper 296. http://scholarship.law.uc.edu/fac\_pubs/296 Professor Vázquez is an expert in both the criminal justice and civil system. She is an Associate Professor of Law and teaches in the areas of immigration, property, criminal procedure, and crimmigration at U Cincinnati College of Law. Prior to joining the faculty, Professor Vázquez taught at the University of Pennsylvania Law School where she taught crimmigration and in the civil litigation clinic in various areas, such as landlord-tenant, civil forfeiture, fraudulent title transfers, mortgage fraud, 1983 litigation, child support, and family law. She also taught at Villanova University School of Law and the William S. Boyd School of Law at the University of Nevada-Las Vegas where her teaching focused on issues impacting low wage workers and immigrants in both the civil and criminal justice system. //nhs-VA

Next, even if the collateral consequences doctrine will be applied in certain circumstances, immigration consequences are not "indirect" to a criminal conviction and, therefore, should not fall under that category. Although the majority of courts have found that immigration actions result from a separate proceeding in a separate court and held that criminal courts have no jurisdiction over such proceedings, strong arguments exist to contradict this long held belief.29 One argument is that immigration is not a separate and distinct matter, outside the jurisdiction of the criminal court system. 30 Despite the refusal of most courts to recognize it, the existence of immigration law in the criminal court is well established as well as their intertwined histories and increasing ties. 31 One perfect example of this relationship is the role that criminal court judges have played and continue to play in the removal of noncitizens. Additionally, when factors such as immigration status are used to influence the strategies of prosecutors in prosecuting cases, in negotiating pleas, in determining bail, and in influencing charges that will be imposed, the ties that bind immigration law and the criminal system are clearly illustrated.33 Another strong argument against their categorization as a collateral consequence is the "definite immediate, or largely automatic" effect criminal convictions, especially aggravated felony convictions, have on a noncitizen defendant in light of the dramatic changes to immigration law that have taken place in the last twenty years.34 As discussed below, immigration law in the criminal courtroom has almost always existed and continues to exist to this day. A. History of Criminal Court Involvement with Immigration Law 1. Judicial Recommendation Against Deportation Abolished For seventy-three years, criminal courts had the ability to protect a defendant from removal. Criminal court judges would sign a Judicial Recommendation Against Deportation (JRAD) and neither the Attorney General nor Immigration Court had the power to overturn that decision to prevent the deportation of the immigrant. This authority was conferred on the judges with the passage of the Immigration Act of 1917: That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence, makes a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act. The rationale for the JRAD system was that the criminal court and its players had the best ability to assess whether the defendant should be removed based upon his criminal charges or conviction.36 Eligibility for JRAD hinged on the defendant's ties to the community, as well as his family situation, criminal record, and evidence of rehabilitation.37 Because the criminal court judge spent more time on the criminal case and was more familiar with all of the circumstances of the case, the criminal court judge was seen as more knowledgeable about these factors than the immigration court judge. Therefore, it was both logical and efficient for the criminal court judge to determine whether an immigrant should be relieved from deportation for a criminal conviction. The Congressional Record of the 1917 Immigration Act provides some insight into the legislative intent behind JRAD. During the debate, legislative representatives expressed their desire for criminal court judges to be provided with a real opportunity to determine whether the defendants before them should be deported.39 Congress' goal was to help the defendant avoid deportation by educating judges on the possibility of providing the defendant with relief from deportation 40 under JRAD, as permitted under the law at the time. Legislators also considered the length of time that a defendant could request a JRAD after sentencing. 41 Their discussion spoke to the importance of JRADs and their struggle to make JRADs available to defendants is obviously in the record.42 The representatives' main concern seemed to be the lack of existing knowledge and opportunity to seek a JRAD, never did the discussion discuss its abolishment. 43 In this history, it is evident that Congress was aware of the detrimental effect that a criminal conviction had on a noncitizen's life and wanted the noncitizen to be given the opportunity to stay in the country. The argument that immigration law was a separate and distinct matter, therefore placing it outside the purview of the criminal court, was never brought into the discussion. As a further illustration of the keen awareness Congress held of the ramifications of criminal convictions on noncitizens and their support for its prevention, one only needs to be reminded of the fact that JRADs were proposed in 1917, forty-three years before the right to counsel in state criminal cases was given to defendants.44 It was not until 1990, 74 years after its enactment, that JRADs were abolished and the criminal courts lost the ability to prevent deportation of a noncitizen defendant who might otherwise have been worthy of reprieve.45 Very little is known about why JRADs were abolished, however the reason can be inferred from the political climate of the times. By the late 1900s, "illegal" immigration was a top political issue.46 Scholars have pointed out that from the early 1990s to the present day, criminal and immigration investigations "increasingly are being used in mutually reinforcing ways... the government has relied on immigration enforcement tools as a pretext for investigative techniques and detentions that would be suspect under the criminal rules." 4 7 Therefore, due to the increased impact of criminal law on immigration law and anti-immigrant attitudes, criminal courts were stripped of 48 their main tool for preventing deportation. 2. Federal Criminal Courts'Ability to Deport Noncitizens in Criminal Court Proceedings Although JRADs were abolished in 1990, criminal court judges were not severed from the determination of an immigrant defendant's removal. Reflecting the attitudes of the political climate, the perception that both legal and "illegal" immigrants were a drain on society and somehow served as a catalyst to increase the occurrence of crimes,49 Congress passed the Immigration and Nationality Technical Corrections Act of 1994 (INTCA). This act gave federal criminal court judges the power to order deportation during the sentencing phase of a federal criminal 50 proceeding. Thereby, Congress gave criminal courts a continuing and direct involvement in deportation. The purpose of INTCA was to establish procedures for expediting the deportation of criminal aliens, and it included provisions granting federal district courts authority to issue judicial orders of deportation at the time of sentencing.5 1 Federal criminal court judges continue to have this authority to order deportation of a noncitizen defendant during a criminal court proceeding, thereby bypassing immigration court and expediting the removal of the noncitizen defendant from the United States.5 2 3. Creation of Criminal Court Admonishments to Advise Defendants of the Immigration Consequences of Their Conviction at Time ofPlea Under the Federal Rule of Criminal Procedure 11 and many states' Rule of Criminal Procedure 11 or statutes, courts are required to admonish a defendant at the time of the plea to ensure that the plea is both knowing and voluntary.53 Historically, the Court has limited the scope of this admonishment to information to information determined to be a "direct consequence[]" of the plea.54 Therefore, immigration implications would not be included in the admonishment since they have been seen 55 as "indirect" and, therefore, collateral consequences. Despite, the Court's distinction, many state legislatures have added provisions in their Rule 11 or enacted specific statutes requiring courts to admonish defendants that their plea may have adverse effects on their immigration status if they are not noncitizens.56 Two states, Colorado and Indiana, impose this duty by case law.57 In fact, many state-required admonishments go further and require the courts to advise that their plea may have adverse effects on, not only their immigration status, but their ability to naturalize. Currently, thirty states, the District of Columbia, Puerto Rico, and the United States military require such admonishments.59 Although legislative history is scant on the legislature's intent when enacting such statutes, the state legislative histories that do exist reflect the overwhelming desire to inform noncitizen defendants of the potential immigration consequences of their criminal conviction so that defendants will be able to make an informed decision about their plea while they still have an opportunity to prevent deportation. For example, the legislative history of the enactment of Washington's admonishment provision reads as follows: The legislature finds and declares that in many instances involving an individual who is not a citizen of the United States charged with an offense punishable as a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. Therefore, it is the intent of the legislature in enacting this section to promote fairness to such accused individuals by requiring in such cases that acceptance of a guilty plea be preceded by an appropriate warning of the special conse quences for such a defendant which may result from the plea. As illustrated by the language above, legislative intent reflects three issues: (1) the legislature's acknowledgement that criminal convictions have a severe impact on a noncitizen defendant's immigration status; (2) their acknowledgment that defendants are often unaware of the consequences of their plea; and (3) their desire to create a mechanism by which noncitizen defendants will be informed of the immigration consequences of their criminal conviction during criminal court proceedings. As is illustrated in the increasing number such enactments through the years, this issue is gaining an increasing amount of attention. Legislatures, along with advocates and policy makers, are aware that immigration consequences are not only critical to the noncitizen defendant but many times more important than the criminal sentence. These legislative additions reflect the growing movement to maneuver past the courts' firmly established refusal to require advisement of immigration consequences during the criminal court proceeding, further reflecting the view that advice during the criminal proceeding is crucial. Therefore, it is not surprising that admonishment provisions continue to be enacted across the United States despite court opinions holding them to be collateral. B. History of Criminal Convictions Affecting Immigration Status In addition to the historical and current presence of immigration law in the criminal court system, criminal law is playing an increasing role in the immigration court system in two ways: 1) the number of crimes that qualify as a removable offense has significantly increased; and 2) many forms of relief that were previously available have been abolished for noncitizens convicted of crimes. 61 Unfortunately, these changes have done two things: (1) increased the number of noncitizens eligible for removal; and (2) increased the perception that immigrants are criminals, based on an increased pool of removable individuals Since criminal court proceedings may be the only chance to prevent removal, receiving information on the immigration consequences at the criminal court stage becomes crucial.

#### The criminal justice system isn’t one organization rather a diverse collection of agencies – even if immigration court isn’t part of criminal *courts*, it is a subset of the criminal justice system. CliffsNotes n.d.

“The Structure of Criminal Justice.” *The Structure of Criminal Justice*, www.cliffsnotes.com/study-guides/criminal-justice/the-criminal-justice-system/the-structure-of-criminal-justice. //nhs-VA

The phrase criminal justice system refers to a collection of federal, state, and local public agencies that deal with the crime problem. These agencies process suspects, defendants, and convicted offenders and are interdependent insofar as the decisions of one agency affect other agencies. The basic framework of the system is provided by the legislative, judicial, and executive branches of government. The legislature Legislatures, both state and federal, define crimes, fix sentences, and provide funding for criminal justice agencies. The judiciary Trial courts adjudicate (make judgments on and pronounce) the guilt of persons charged with crimes, and appellate courts interpret the law according to constitutional principles. Both state and federal appellate courts review legislative decisions and decide whether they fall within the boundaries of state law, federal law, and ultimately, the United States Constitution. **Judicial review** gives the courts the power to evaluate legislative acts in terms of whether they conform to the Constitution. If a law is in conflict with the Constitution, an appellate court may strike it down. The executive branch Executive power is given to the president, governors, and mayors. On criminal justice matters, they have the power to appoint judges and heads of agencies, such as police chiefs and directors of departments of corrections. In addition, elected officials can lead efforts to improve criminal justice by putting forth legislative agendas and mobilizing public opinion. The major components of the justice system The justice system's major components—police, courts, and corrections—prevent or deter crime by apprehending, trying, and punishing offenders. **Police departments** are public agencies whose purposes are to maintain order, enforce the criminal law, and provide services. Police officers operate in the community to prevent and control crime. They cooperate with prosecutors in criminal investigations, gathering evidence necessary to obtain convictions in the courts. Courts are tribunals where persons accused of violating criminal law come to have their criminal responsibility determined by juries or judges. The purposes of the courts are to seek justice and to discover the truth. The primary actors in the courts are the prosecutors, defense attorneys, and judges. **Corrections** include probation, parole, jail, prison, and a variety of new community‐based sanctions, such as electronic monitoring and house arrest. The purposes of correctional agencies are to punish, to rehabilitate, and to ensure public safety. The differences between federal and state justice systems Federal and state justice systems carry out the same functions (enforcing laws, trying cases, and punishing offenders), but the laws and agencies of the two systems differ. State legislatures make most criminal laws, which are enforced by state and local police. City and county prosecutors try persons accused of breaking state laws in state courts. Judges sentence offenders convicted of violating state laws to serve time in either locally supervised jails or state‐controlled correctional institutions. At the federal level, Congress enacts criminal laws, and federal law enforcement agencies, such as the Federal Bureau of Investigation, enforce these laws. U.S. attorneys prosecute persons accused of committing federal crimes, and U.S. courts try the cases. To punish and rehabilitate those convicted of federal crimes, the Federal Bureau of Prisons provides programs and institutions. The first line of defense against crime The administration of justice in the United States is mainly a state and local affair. State and local governments employ two‐thirds of all criminal justice workers and also pay a much larger share of the costs of criminal justice than the federal government. Then, too, state, county, and city criminal justice agencies provide most of the protection from thieves, rapists, and murderers. Criminal justice as a nonsystem Critics say criminal justice is really not a system. They point out that in some respects criminal justice agencies are independent bodies and that they take their authority and budgets from different sources. Police departments are funded mainly by towns and cities; prosecutors, public defenders, trial courts, and jails are mainly countywide; and prisons and appellate courts are mainly statewide. In addition to having separate sources of authority and funding, criminal justice agencies set their own policies. Finally, the agencies often fail to coordinate their activities and, thereby, ignore the impact that their decisions will have on other agencies.

### C/I – Predicate

#### If a phrase uses a stage-level predicate to describe a mass noun, the sentence only refers to some instances of that noun

Lasersohn 11 [(Peter Lasersohn is a professor of linguistics at the University of Illinois at Urbana-Champaign) “Mass Nouns and Plurals” In Claudia Maienborn, Klaus von Heusinger & Paul Portner (eds.), Semantics: An International Handbook of Natural Language Meaning. De Gruyter Mouton. pp. 2 (2011), prefinal version, <https://pdfs.semanticscholar.org/c466/59d0537b343bda835d912dc0d0d2141fecd2.pdf> DOA 1/18/18] CW

Determinerless (or “bare”) mass and plural noun phrases also show a parallel alternation in interpretation, depending on the predicate with which they combine. If the predicate is stagelevel (in the terminology of Carlson 1977a,b), the noun phrase is understood as existentially quantified, as in (4)a. and b., which are roughly equivalent to Some water leaked into the floor and Some raccoons were stealing my corn, respectively: (4) a. Water leaked into the floor. b. Raccoons were stealing my corn.

#### And, stage level predicates means it’s a quality that can change in the subject

Manninen 15 - Department of Linguistics, University of Edinburgh (Satu Interpretation of Adverbials with Stage/Individual Level Predicates University of Edinburg <http://www.lel.ed.ac.uk/~pgc/archive/1997/paper15/paper15.html> DOA 1/15/17) CW

The sentence in (2) is ambiguous between two readings. On the one hand, we can be talking about some specific, temporary occasion on which Sirkku walks. On the other hand, we can be talking about some generic, permanent property or characteristic that Sirkku has. The first reading is the stage level reading, and the second reading is the individual level reading. Carlson (1977) argues that these two readings arise because the verb 'walk' has multiple meanings. It can either be a stage level verb and quantify over stages, or it can be an individual level verb and be predicated of individuals. As a stage level verb, it expresses temporary, transitory events: we are saying something that holds of an individual named Sirkku with regard to some particular time or place. As an individual level verb it expresses the inherent, permanent properties or characteristics that an individual has: we are saying something that always holds of an individual named Sirkku, or is always Sirkku's property or characteristic, irrespective of time or place. It is always true of Sirkku that she has the property of walking, in the same way that it is always true of Sirkku that she has blond hair, or tans easily, or likes to eat croissants in the morning. This is in keeping with Milsark (1974), who argues that stage level predicates express qualities that can be removed without causing any changes in the essential qualities of the individual, ie in this case the subject Sirkku, whereas individual level verbs express qualities that cannot be removed without causing changes in the essential qualities of the individual. This is exactly where adverbials enter the scene, because many adverbials, although they are not arguments of the verb and are not selected by the verb, seem to contribute something to the essential qualities of the entity, and thus cannot be deleted from the sentence without causing changes in the essential qualities of the individual.

#### The resolution’s predicate is “ought to be abolished,” which is stage-level since whether or not plea bargaining is abolished doesn’t change the inherent qualities of plea bargaining. Thus, proving that some instances of plea bargaining ought to be abolished is enough to affirm.

### C/I – Sentence Bargaining

#### The aff defends a type of sentence bargaining, which is plea bargaining. Schwartzbach no date

Schwartzbach, Micah. “What Are the Different Kinds of Plea Bargaining?” Www.nolo.com, www.nolo.com/legal-encyclopedia/what-the-different-kinds-plea-bargains.html.Beforehand, he practiced primarily criminal defense law, specializing in research and writing. He writes and edits content across a range of practice areas. Micah earned his B.A. from the University of California, Davis, where he graduated with highest honors, and his J.D. from the University of California, Hastings College of the Law, where he graduated cum laude. //nhs-VA

**Charge bargaining.** The defendant pleads to a crime that’s less serious than the original charge, or than the most serious of the charges. *Example*: The prosecution charges Andrew with burglary, but he pleads guilty to trespassing and the prosecution dismisses the burglary charge. **Count bargaining.** Many consider count bargaining to fall under charge bargaining. Here, the defendant pleads to only one or more of the original charges, and the prosecution drops the rest. *Example*: The prosecution charges Joey with both robbery and simple assault. The parties agree that Joey will plead to the assault charge, and that the prosecution will dismiss the robbery charge. Sentence bargaining. The defendant takes a guilty or no contest plea after the sides agree what sentence the prosecution will recommend. *Example*: Max agrees to plead to the charge of misdemeanor resisting arrest, and the prosecution agrees to recommend that the judge not sentence him to jail time. **Fact bargaining**. The defendant pleads in exchange for the prosecutor’s stipulation that certain facts led to the conviction. The omitted facts would have increased the sentence because of sentencing guidelines. *Example*: The government files an indictment against Cole for drug trafficking. Federal agents caught him with over five kilograms of cocaine. Five kilograms triggers a sentence involving many years in prison, so Cole agrees to plead guilty to the offense in exchange for the prosecution’s stipulation that he possessed less than five kilograms.

### Overing

#### Plans are key to using empirics, which is key to clear judging.

Overing 14 [Bob Overing (TOC Finalist 2012). “TOPICALITY AND PLANS IN LD: A REPLY TO NEBEL BY BOB OVERING.” Premier Debate Today, 12/11/14] AJ

Additionally, on my view, the aff could use specific examples while avoiding the induction/generalizability problem. As Allen and Burrell (1985) explain, on definitions like T1 and T2, the aff can only win on a plan if its proposal generalizes to the resolution as a whole (p. 857-59). Importantly, this means that even on Nebel’s view, the aff gets to read a plan. However, this produces bad debates by requiring a generalizability contention in the aff case. Debaters either a) race to find the most representative example for their side of the topic and debate out the comparative “generalizability” of these examples, or b) eschew example-finding altogether in favor of a whose-large-metastudy-is-better debate, neither of which seem particularly productive. Simon (1984) also points out that these debates may be difficult to judge due to a lack of standard for clear example comparison (p. 50-51). In-depth plan debates seem less repetitive, more informative, and more lenient on the aff. Modifiers in the topic such as a plural actor or words like “substantial” or “prioritize” as well as stock issues constrain potential plans avoid minute, unpredictable plans. Goodnight, Balthrop and Parson (1974) defend something similar, recognizing that many plans may not “ontologically encompass the resolution for all times” but may be overwhelmingly valuable for competitive debate (cited in Dolley, 1984).

### AT: Hargrave

#### This card is talking about forced heirship – not abolishing a law in general

#### You assume that abolish inherently means total removal, but even your own definition says it just means thorough removal

### AT: Nebel

#### Generics apply to rules – the res uses ought which isn’t one

Reiter and Frank ’10 (Nils Reiter and Anette Frank Department of Computational Linguistics Heidelberg University, Germany, July 2010. “Identifying Generic Noun Phrases” https://pdfs.semanticscholar.org/5078/2fb22573c8b612743aade2d3e0b241f8ae0f.pdf | SP)

Generic expressions come in two basic forms: generic noun phrases and generic sentences. Both express rule-like knowledge, but in different ways. A generic noun phrase is a noun phrase that does not refer to a specific (set of) individual(s), but rather to a kind or class of individuals. Thus, the NP The lion in (1.a)1 is understood as a reference to the class “lion” instead of a specific individual. Generic NPs are not restricted to occur with kind-related predicates as in (1.a). As seen in (1.b), they may equally well be combined with predicates that denote specific actions. In contrast to (1.a), the property defined by the verb phrase in (1.b) may hold of individual lions. (1) a. The lion was the most widespread mammal. b. Lions eat up to 30 kg in one sitting. Generic sentences are characterising sentences that quantify over situations or events, expressing rule-like knowledge about habitual actions or situations (2.a). This is in contrast with sentences that refer to specific events and individuals, as in (2.b).

### Overlimiting

#### Stale debates – Debating the same aff over and over has diminishing marginal returns. Even if each debate is in depth, we don’t learn anything new. Also key to Research Skills because their interpretation of the topic requires no new research from either side after the first week of the topic.

#### Topic ed – Arguments for specifying a group of people are completely different from a type of charge*.* Absent specification the neg will never have to engage specific policies, they’ll just read generics. Turns field context; depth key to policy discussion means aff is prior

#### Aff Flex – the aff needs the ability to strategically exclude neg arguments, otherwise the neg just wins every debate by exploiting the 1ar time disadvantage. Your interp means the aff must defend all forms of plea bargaining in all cases, but the lit never addresses blanket policies so there’s no ground.

#### PICs – their interp creates multiple cheap shot PICs to moot the aff. takes out limits and turns all their offense. Outweighs – plenty of generics mean that the neg can come back but being aff is near impossible in your world which takes out ground.

### RVI

### AT: Only One Spec

#### C/I – The aff may spec a type of sentence if there is only one group of people it applies to.

#### I meet – the plan is the TVA since only noncitizens can be deported. Wernick 16

Wernick, Allan. “Naturalized U.S. Citizens Can’t Be Deported, Even for Crimes.” NY Daily News, NEW YORK DAILY NEWS, 20 May 2016, www.nydailynews.com/naturalized-citizens-deported-crimes-article-1.2643570. Allan Wernick is an attorney and director of the City University of New York's Citizenship Now! project. //nhs-VA

Q. Is it true that a naturalized citizen cannot be deported for a crime committed after naturalizing? I have a nephew who was deported by ICE after he was convicted several times for drug possession. Could ICE have done that to a U.S. citizen? Name withheld, New York A. No. Naturalized citizens cannot be deported for actions taken, including criminal activity, after naturalizing. Sometimes the U.S. government discovers that a naturalized citizen committed a crime before naturalizing that would have barred the person from getting U.S. citizenship. In those cases, the government can deport the individual but only after taking away U.S. citizenship, a process called “denaturalization.” Taking away a person’s U.S. citizenship is difficult and rare. At one time, the law allowed for loss of U.S. citizenship through commission of what the law calls “an act of expatriation.” The government used to be able to take a person’s citizenship away for such acts as voting in a foreign election or joining a foreign government. Those rules no longer apply.

#### Their interp doesn’t solve limits or ground – I can still spec a type of offense, which *should* have a large caselist regardless.

### AT: Textuality

### AT: Underlimiting

### AT: Ground

#### The aff still defends all types of plea bargaining – you also get the shift DA. Findlaw no date

 “Plea Bargains: In Depth.” Findlaw, criminal.findlaw.com/criminal-procedure/plea-bargains-in-depth.html. //nhs-VA

What Types of Plea Bargains Are There? There are generally three types of plea bargains recognized: Charge Bargaining: the most common form of plea bargaining, the defendant agrees to plead guilty to a lesser charge provided that greater charges will be dismissed. A typical example would be to plead to manslaughter rather than murder. Sentence Bargaining: far less common and more tightly controlled that charge bargaining, sentence bargaining is when a defendant agrees to plead guilty to the stated charge in return for a lighter sentence. Typically this must be reviewed by a judge, and many jurisdictions simply don't allow it. Fact Bargaining: this is the least common form of plea bargaining, and it occurs when a defendant agrees to stipulate to certain facts in order to prevent other facts from being introduced into evidence. Many courts don't allow it, and in general, most attorneys do not favor using fact bargains.

### AT: FX-T

### 2AR – PICs

#### Overview

#### AT: Probability Weighing

#### AT: Not Intrinsic

#### AT: C/I Plank

#### AT: 1AR Theory

#### AT: Plans Force PICs

#### AT: Potential Abuse

#### AT: Allows Truisms

## DAs

### AT: Agenda Politics

#### No thumpers.

Golshan 4-9-18

Tara, politics reporter for vox, All the things Congress probably isn’t going to do this year, https://www.vox.com/2018/4/9/17206630/congress-unfinished-business-midterms-agenda, msm

But as lawmakers return to the Capitol Building after the spring recess, don’t expect them to take up many — if any — of these pressing concerns. As the midterm election season ramps up, Congress is expected to avoid major controversial issues and stick to confirmation hearings and political messaging bills. As USA Today’s Eliza Collins pointed out, “the performance of Congress over the past five midterm election lead-ups — from the Easter break to Election Day in 2014, 2010, 2006, 2002 and 1998 — backs up the common belief that nothing much is accomplished during that dead-zone period.” There have been few exceptions, like when Democrats held wide majorities, and in the wake of major national events like the 9/11 terrorist attacks. Congress’s massive spending bill — a $1.3 trillion funding package that will keep the government open through September 30 — was widely regarded as their last major legislative fight of the year. But on health care, immigration, guns, and infrastructure, there are still a lot of policies that were supposed to see action and haven’t yet. There’s a lot of unfinished business. DACA and other immigration issues will likely get the silent treatment Last September, Trump’s administration pledged to sunset the Deferred Action for Childhood Arrivals program, throwing the sympathetic, yet still contentious, issue of young undocumented immigrants on Congress’s plate. The fate of the program is now in limbo in the courts, and Congress still doesn’t seem poised to act. After months of failed negotiations, senators have already voted down four immigration proposals. The bill that had Trump’s blessing, which would have given 1.8 million undocumented immigrants a path to citizenship but substantially gutted the legal immigration system, received the fewest votes. The only comprehensive bipartisan proposal on the table not only failed to win enough votes but was panned by Trump’s administration. In the House, Speaker Paul Ryan has been slowly whipping votes for a conservative immigration proposal that wouldn’t offer a path to citizenship at all. So far the proposal has failed to shore up enough support even among House Republicans. In other words, lawmakers have essentially thrown up their hands on the issue. But Trump isn’t over it. He spent much of the time lawmakers were on recess angrily tweeting for the end of DACA and calling for hardline immigration reforms. It’s not clear whether Trump will make enough noise for Congress to actually act. But at this point it’s clear Republicans would rather avoid the issue altogether. Activists are calling for more gun control. Republicans have moved on. The day after Congress left town, at least 1.2 million people participated in March for Our Lives events across the United States. Prompted by students from Marjory Stoneman Douglas High School in Parkland, Florida, where a mass shooting killed 17 in early February, the rallies were a culmination of weeks of activism and calls to action around gun control and school safety. Gun control has been something of a white whale for Democratic politicians for years. After every mass shooting, Congress enters into a cycle of talking but not acting. At the beginning of this year, Republicans actually rolled back an Obama-era rule that made it harder for people with mental illness to buy a gun. But the shooting in Parkland reignited the gun control debate more vigorously, and some Democratic-led proposals initially gained the backing from President Donald Trump. Before lawmakers left town, they did pass some gun-related pieces of legislation: the Fix NICS Act, which did not create new background check rules but reinforced existing ones, and the STOP School Violence Act, which established $50 million in grants for school safety, including infrastructure and improving reporting systems. They also clarified that the Centers for Disease Control and Prevention can conduct research on gun violence, something that has long been stifled by the Dickey Amendment, which states federal dollars can’t “promote gun control.” Activists are calling for a lot more, and much of the debate around gun control remains unresolved, ranging from the Democratic push for an assault weapons ban to the bipartisan Toomey-Manchin amendment that would expand background checks to online sales and gun shows. Already, it seems, leaders don’t have much appetite to get into those more contentious policy fights. The Obamacare stabilization package that can’t This congressional term began with health care, as Republicans, in power of the House, Senate and White House, attempted to repeal and replace the Affordable Care Act. That effort failed. Instead, Republicans managed to repeal the individual mandate, a tax on those who opt out of buying health insurance, and some began to propose ways to stabilize the Obamacare markets. The latest iteration of the Obamacare stabilization package, which Sen. Susan Collins (R-ME) co-sponsored with Sen. Lamar Alexander (R-TN), would have funded cost-sharing reduction subsidies, which help insurance companies keep down premium costs, for three years and pumped billions of dollars into reinsurance funding, which essentially backstops insurance companies’ expenses with high-cost patients. The idea was to put the stabilization package in the spending bill. But the White House and Republican leadership also included language that would prevent the Obamacare payments from going toward any insurance plan that covers abortions — which Democrats said would adversely impact low-income women. Neither party was willing to concede, and the Obamacare stabilization funding was dropped altogether.

#### No legislation until after the dead-zone period

DeBonis 4-7-18

Mike, Congressional reporter for the Washington Post, Congress is back at work, without much legislating on the agenda, https://www.washingtonpost.com/powerpost/congress-is-back-at-work-without-much-legislating-on-the-agenda/2018/04/07/f4f252e6-39b1-11e8-acd5-35eac230e514\_story.html?noredirect=on&utm\_term=.b63f75bdfd4d, msm

When Congress returns Monday, lawmakers will confront numerous critical issues — including trade, immigration and digital privacy — but they will be hard-pressed to act. An absence of hard deadlines and the political realities of an election year mean that the $1.3 trillion spending bill that President Trump begrudgingly signed into law last month is probably the last significant legislation to pass Congress before voters go to polls in November. Instead, the House is preparing to take a largely symbolic vote on a constitutional amendment requiring a balanced federal budget and to try to reverse some spending while also finishing up a banking deregulation bill and drafting legislation to address the opioid crisis. The Senate, meanwhile, is likely to spend much of the rest of the year trying to confirm Trump nominees — including more judges as well as the president’s picks to lead the State Department and the CIA after last month’s Cabinet shuffle. The lack of high-stakes legislating — such as last year’s all-hands-on-deck GOP efforts to undo the Affordable Care Act, which ultimately failed, and pass a landmark tax overhaul, which is now law — is prompting grumbles from rank-and-file Republicans eager to do more, with their majority at stake in November’s midterm elections. “It was a darn good year — taxes were down, regulations were down, the economy was growing,” said Rep. Jim Jordan (R-Ohio), a co-founder of the conservative House Freedom Caucus, describing 2017. “But 2018? We’ve done one [spending] bill that the American people strongly dislike, and certainly Republican voters strongly dislike. . . . So, yeah, we got to do more this year.” But there are obstacles to taking decisive action on key GOP agenda items over the next seven months. A razor-thin Senate majority, deep intraparty divides and a limited Democratic appetite for bipartisan cooperation are limiting what Republican leaders are entertaining for the months ahead. The Trump administration’s plans for an ambitious infrastructure initiative have generated little enthusiasm on Capitol Hill, where conservative lawmakers are wary of authorizing more federal spending, while Democrats are pushing to pay for a more extensive plan by rolling back some of the GOP’s tax cuts — a complete nonstarter for Republicans. Immigration talks have come to a standstill after a frantic effort to cut a deal that would protect young undocumented immigrants known as “dreamers” from deportation fell short last month in a flurry of sniping between the parties. With Trump’s cancellation of the Deferred Action for Childhood Arrivals program in court-ordered limbo, probably until next year, there is little appetite to rekindle talks before the election. And while Trump’s recent decisions to slap tariffs on foreign goods have made scores of lawmakers anxious about an emerging trade war, GOP congressional leaders are loath to rein in the vast powers Congress has delegated to the president to set trade policy. The House Ways and Means Committee will hold a hearing Thursday to examine the tariffs, but efforts to roll them back have not gained significant traction. Instead, Senate Majority Leader Mitch McConnell (R-Ky.) appears to be gearing up to grind through confirmations, including potentially tricky fights to install Mike Pompeo as secretary of state, Rear Adm. Ronny L. Jackson as secretary of veterans affairs and Gina Haspel as CIA director. Pompeo could face a confirmation hearing as soon as this week, where he is likely to get pointed questions about the Trump administration’s foreign policy objectives — particularly with regard to North Korea. Jackson, meanwhile, is facing widespread skepticism about his qualifications to lead VA after serving as White House physician. Haspel’s nomination has generated fierce opposition from many Democrats and tough questions from key Republicans over her role in post-9/11 “enhanced interrogation techniques” that critics have described as torture. The bulk of the public attention on Capitol Hill this week, however, won’t be focused on lawmakers but on Mark Zuckerberg. The Facebook founder and chief executive is set to testify before Senate and House committees in separate appearances Tuesday and Wednesday to address the company’s privacy practices in the wake of revelations that a political firm employed by the Trump campaign accessed the private data of 87 million Facebook users. Although the klieg lights will shine brightly on the digital- ­privacy issue this week, there are no concrete plans among lawmakers to pursue new regulations for the tech industry to respond to the Facebook revelations or any of the other high- ­profile data breaches that have eroded public trust in Silicon Valley — though that could change after Zuckerberg’s testimony.

#### Trump has ZERO pc

Glassman 4-25-18

Matt, senior fellow at the Government Affairs Institute at Georgetown University, How Congressional Republicans Have Neutered the Trump Agenda, https://www.nationalreview.com/2018/04/trump-agenda-neutered-by-republican-congress/, msm

Donald Trump’s influence with Congress is weak. When political scientists assess a president’s legislative influence, they focus on his ability to set the lawmaking agenda and to secure policy outcomes that align with his preferences. During the 115th Congress, the president has failed at both. Observers of Congress have long recognized that legislative power lies not only in the ability to influence vote outcomes, but also in the ability to decide what issues even make it to a vote. Such agenda-setting lies at the heart of what political scientists Peter Bachrach and Morton Baratz famously called the “second face of power.” Powerful political actors — most notably the majority party leadership and president, but also committee chairmen — not only can sway how rank-and-file members vote, but they can also influence what subjects are brought up for consideration and, perhaps more importantly, ensure undesired legislation never makes it to the floor. This latter practice — negative agenda control — is particularly powerful because when something doesn’t happen, no evidence of it is left behind for observers, electoral challengers, or voters to attract scrutiny. Agenda-setting also provides positive power, allowing leaders to set the party’s legislative priorities. When party leaders clash over these priorities, the resulting agenda is a window into where power actually lies. By this measure, GOP legislative power mostly lies in Congress right now. Republican leaders have almost completely ignored the policy priorities of President Trump. To date, not one major piece of legislation has been taken up that ideologically reflects Trumpism rather than Republican orthodoxy. Congress has not considered immigration restrictions. It hasn’t taken up any protectionist trade legislation. No infrastructure package has moved in either chamber. The one major trade bill Congress did consider was the Russia sanctions bill that reduced the president’s discretion, which Trump opposed. It passed the House 419–3. In the realm of appropriations, Congress has not only ignored Trump’s agenda, but has repeatedly rejected it wholesale. The president’s FY2017 and FY2018 budget requests, both of which called for deep cuts in non-defense discretionary spending, were declared dead on arrival by GOP members. The FY2018 omnibus contained massive increases in non-defense discretionary spending. What wasn’t funded in one of the largest discretionary spending bills in history? Trump’s oft-demanded border wall. The president’s failure to set a positive agenda doesn’t mean he isn’t influencing the legislative process. Even weak presidents exercise negative agenda-control through veto threats and the resulting bargaining. Once an issue is taken up by Congress, that leverage provides presidents influence over the substance of legislation, regardless of who set the agenda. Just as congressional votes can’t tell you what was kept off the agenda, the lack of vetoes by President Trump so far masks the influence veto threats may provide to the president. But here again, Trump is weak. In areas where Trump broadly supports orthodox Republican policy, such as repeal of the Affordable Care Act and tax reform, congressional leaders have moved bills that show little substantive administration influence. During both the health-care and tax push, Trump announced constantly changing positions, tussled in public with various important lawmakers, and generally tended to support whatever version of each bill was currently being considered, while occasionally repudiating previous iterations. In essence, the president ceded legislative agenda-setting to Congress and simply became a cheerleader for whatever congressional Republicans came up with. This is one reason that you shouldn’t put much stock in all those vote studies that show congressional Republicans voting with Trump at very high rates. Such studies assume the president is setting the agenda, and that congressional Republicans are choosing whether or not to support the president’s position. But with the agenda being set by congressional leaders and the administration having unusually little influence over the substance of legislation, it makes more sense to view such correlations as Trump’s adopting the Republican position.

### AT: Crime

#### The link controls the size of the impact – deportations offered as part of the plea bargain don’t cause a massive increase in crime; there’s no brink arg in the 1NC

#### Their rhetoric that argues noncitizens are criminals is exactly what we criticize – it’s racist and that’s a decision-rule: racism must be rejected in every instance.

Memmi ’00 [Albert is a Professor Emeritus of Sociology @ Unv. Of Paris, Albert-; RACISM, translated by Steve Martinot,]

The struggle against racism will be long, difficult, without intermission, without remission, probably never achieved, yet for this very reason, it is a struggle to be undertaken without surcease and without concessions. One cannot be indulgent toward racism. One cannot even let the monster in the house, especially not in a mask. To give it merely a foothold means to augment the bestial part in us and in other people which is to diminish what is human. To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence. It is to accept the persistence of the dark history in which we still largely live. It is to agree that the outsider will always be a possible victim (and which [person] man is not [themself] himself an outsider relative to someone else?). Racism illustrates in sum, the inevitable negativity of the condition of the dominated; that is it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animality to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one’s moral conduct only emerges from a choice: one has to want it. It is a choice among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that the choice to conduct oneself morally is the condition for the establishment of a human order for which racism is the very negation. This is almost a redundancy. One cannot found a moral order, let alone a legislative order, on racism because racism signifies the exclusion of the other and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is “the truly capital sin.” 22 It is not an accident that almost all of humanity’s spiritual traditions counsel respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical counsel respect for the weak, for orphans, widows or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, we have an interest in banishing injustice, because injustice engenders violence and death. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. But no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. “Recall,” says the bible, “that you were once a stranger in Egypt,” which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming once again someday. It is an ethical and a practical appeal – indeed, it is a contract, however implicit it might be. In short, the refusal of racism is the condition for all theoretical and practical morality. Because, in the end, the ethical choice commands the political choice. A just society must be a society accepted by all. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday to live in peace. True, it is a wager, but the stakes are irresistible.

**Turn – Plea bargaining is the leading contributor to mass incarceration – it manufactures a forfeiture of rights that subordinates people of color to the state and replicates a system of crime**

**Heiner 16** [(Brady, Affiliated Faculty of African American Studies, California State University, Fullerton) “The procedural entrapment of mass incarceration: prosecution, race, and the unfinished project of American abolition,” Philosophy and Social Criticism, 2016] DRD

First, the procedural entrapment thesis is **that the American plea bargain system** (as an apparatus of population management wherein the USA maintains 5 per cent of the global population but 25 per cent of the world’s imprisoned population, and as an insti- tution that coerces the forfeiture of due process rights to accelerate criminal conviction and confinement of those charged), **is massively and predominantly, though not acciden- tally or exclusively, a technology of racial domination. As a system of procedural entrap- ment, the plea bargain regime is a necessary condition of and a leading contributor to mass incarceration, which is fundamentally immoral and racially unjust. ¶ Without the widespread ‘forfeiture’ of rights that the plea bargain regime manufac- tures, the American criminal justice system simply could not process – i.e. arrest, detain, prosecute, imprison, and supervise – the vast numbers of people (predomi- nantly of color) that it currently does. The Supreme Court recognized this in 1971: ‘If every criminal charge were subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities.**’78 (And this **was just 5 months after President Richard Nixon declared the war on drugs, which inaugurated the era of mass incarceration that has since led to the upsurge of the imprisoned population by over 500 per cent. If criminal justice proce- dural capacity would have had to multiply many times over to accommodate every criminal defendant’s constitutional right to trial in 1971, the equivalent capacity requirements today would be paralysing to state and federal budgets.)** The Court then concluded that plea bargaining is ‘an essential component of the administration of jus- tice’.79 **‘The truth is’,** writes Timothy Lynch, director of the criminal justice project at the libertarian Cato Institute, **‘government officials have deliberately engineered the system to assure that the jury trial system established by the Constitution is seldom used. And plea bargaining is the primary technique used by the government to bypass the institutional safeguards in trials.’**80 ¶ Second, **the sedimentation thesis is directed toward the irresponsible prosecutorial prerogative that undergirds the system of procedural entrapment. As an institutional agency in the entrapment, confinement and social death of millions of Black, Latino/Latina and Native American people, the power of the prosecutorial function is a functional analogue, a postbellum sedimentation, of the irresponsible power of the administrators of plantation law** (i.e. the southern slaveholding class**). Both function massively and predominantly to enforce and reinscribe the terms of the racial contract of their day**. The discretionary power of Frederick Douglass’ overseer was not subject to judicial investigation and was shielded from the censure of the public; and the Black subjects who may have sought refuge from the overseer’s arbitrary executions were extended no legal standing and thus had no recourse to equal protection of the law.81 **Though the Reconstruction Amendments to the US Constitution ostensibly abolished such racial exclusions from the American social contract, present-day prosecutorial discretion, which sometimes makes life-and-death decisions, is analogously unac- countable and unreviewable, is almost always exercised behind closed doors, is answerable only to other prosecutors, and functions analogously to subordinate, entrap and confine people of color.**82 ¶

#### Deportation is offered as a plea deal regardless of the charge and immigrants are less likely to be arrested for drug offenses – no organized crime. Cohen 17

Cohen, Ronnie. “Undocumented Immigrants Less Likely to Be Arrested for Drugs, Alcohol.”Reuters, Thomson Reuters, 8 Aug. 2017, www.reuters.com/article/us-health-crime-immigrants/undocumented-immigrants-less-likely-to-be-arrested-for-drugs-alcohol-idUSKBN1AO2EC. //nhs-VA

As the percentage of immigrants without papers rose in the U.S. population between 1990 and 2014, arrests for drugs and drunken-driving dropped, according to a study in the American Journal of Public Health. “The results of this study challenge the notion that undocumented immigrants cause higher crime rates and general chaos in our communities,” said Josefina Alvarez, a psychology professor at Adler University in Chicago, who was not involved with the research. In the first study of its kind, researchers used immigration estimates from the Center for Migration Studies and the Pew Research Center to test the premise that those who entered the U.S. unlawfully placed the public at greater risk by driving under the influence and using illegal drugs. Contrary to the rhetoric, with every 1 percent increase in the proportion of undocumented immigrants in a population of 100,000, there were 42 fewer drunken-driving arrests, 22 fewer drug arrests and roughly one less drug overdose, the study found. Researchers found no difference in the frequency of drunken-driving deaths. “The debate, both public and political, has far outpaced the research,” said Michael Light, a sociology professor at the University of Wisconsin - Madison who led the study while at Purdue University in West Lafayette, Indiana. “Our study takes a step toward informing these debates with the available data, which says that as the prevalence of undocumented immigrants increases in society, the prevalence of drug and alcohol problems do not increase in tandem,” he said in a phone interview. “In fact, the data seem to suggest the opposite.” The study cites politicians’ claims about undocumented immigrants jeopardizing the health and safety of citizens starting in 2006, when an Iowa congressman claimed that 13 Americans died daily as a result of undocumented drunken drivers. During the 2016 presidential campaign, Senator Ted Cruz promised to build a border wall, which he said would end the nation’s drug epidemic, and President Donald Trump vowed to erect a wall to protect against “bad hombres.” “We think these conversations are too important to have in the absence of evidence,” Light said. “If you want to fight the opioid epidemic or reduce drunk driving, deporting undocumented immigrants residing in the U.S. is likely not going to be the most effective policy.” The number of undocumented immigrants living in the U.S. tripled from an estimated 3.5 million in 1990 to an estimated 10.9 million in 2014. At the same time, violent crime rates fell by half, giving pause to arguments that unlawful immigrants increase violent crime, Light said. Although his study links an increase in undocumented immigration with a decrease in drug and alcohol arrests, it does not establish a causal relationship between the two. But Alvarez said the new study supports previous evidence that immigrants tend to be law-abiding. “Although we don’t have as much research on undocumented immigrants as we would like to have, there is plenty of research showing that immigrants in general are less likely to abuse drugs and alcohol than native-born citizens,” she said in an email. Fear of police surveillance and deportation may deter undocumented immigrants from drinking and driving, or driving at all, Light and his co-authors write. Alvarez has studied drug and alcohol use among Latinos in the U.S. and has seen a phenomenon dubbed the “immigrant paradox” - immigrants living under stressful conditions in poor, crime-ridden communities are less likely to drink alcohol and do illegal drugs, she said. The “healthy immigrant thesis” or “Latino paradox” may explain the new study’s findings, Light said. “When you look at things we think of as predictive of criminal behavior and poor health outcomes - low levels of education, few economic assets, immigrants tend to be engaging in less crime and staying healthier than we would expect,” he said.

### AT: State Budgets

#### Tax bill provides massive revenue – the best they can get is the plan slightly decreases that revenue, but it’s certainly not enough to trigger the impact. DePillis 1/8

DePillis, Lydia. “How the Federal Tax Overhaul Could Reshape State Budgets.” CNNMoney, Cable News Network, 8 Jan. 2018, money.cnn.com/2018/01/08/news/economy/state-budgets-tax-reform/index.html. Lydia DePillis is a reporter focusing on business policy, including lobbying, government contracting, and international trade, with a bit of urban affairs and infrastructure on the side. //nhs-VA

Congress may have finished its tax overhaul last year, but for state governments, the scramble has just begun. No two states will be effected in the same way, and legislative budget offices across the country now face the daunting task of figuring out what the new law means for their budgets and their citizens' tax burdens. The change may reshape the landscape of taxation as states look for new sources of revenue to make up for expected federal spending cuts, and to do so under a new system that could make raising local taxes more difficult. "States are figuring out right now what the tax side is going to look like, but they're not certain what spending from the federal government they're going to end up getting," said Kim Rueben, director of the State and Local Finance Initiative at the Urban-Brookings Tax Policy Center. "So it's going to be another year where a lot of the uncertainty with the economy has to do with the uncertainty in Washington." Although state and federal tax laws are separate, state tax systems often adopt parts of the federal system through a process called "conformity." That means they adjust automatically to changes in certain provisions of the tax code, to reduce administrative complexity. Even though the new federal law will lower taxes for most filers by doubling the standard deduction, among other provisions, it also broadens how much of a filer's income is subject to tax because it gets rid of so many itemized deductions. So to the extent a state uses federal taxable income or federal adjusted gross income (AGI) as its base, more of its residents' income will be subject to state tax. "For most states, they're going to see some sort of increase in revenue, and they will be deciding how to use that revenue," said Nicole Kaeding, an economist with the Center for State Tax Policy at the Tax Foundation. "Do they increase their spending, or do they lower their taxes?" Historically, Kaeding said, states have reacted to federal tax changes like these by cutting taxes, and she expects this time to be no different. Indeed, several states have already moved to "decouple" from the federal tax code. In the days after the federal tax law passed, Republican Maryland Governor Larry Hogan announced his intention to offer legislation that would prevent the state from collecting about $100 million in extra taxes as a result.

#### Link controls the size of the impact – the instance in which we abolish plea bargaining won’t tip us over the brink because GDP isn’t a yes or no question; it’s a sliding scale

#### Case O/W on timeframe – the DA only happens when states vote on their respective budgets

#### Uniqueness overwhelms the link – two straight years of budgets declining mean the impact should’ve happened

#### Thumper – states already doubling education funding. Finke 1/17

Finke, Doug. “Education Officials Want to Double State Budget for Schools.” *The State Journal*, The State Journal-Register, 17 Jan. 2018, www.sj-r.com/news/20180117/education-officials-want-to-double-state-budget-for-schools. State Capitol Bureau. //nhs-VA

State education officials are asking to nearly double the amount of money K-12 education gets from the state. The Illinois State Board of Education voted Wednesday to ask Gov. Bruce Rauner and the General Assembly to give more than $7.9 billion in additional money to the state’s public schools in the budget that will start July 1. That would push the amount of general state tax money schools receive from the current $8.2 billion to more than $15.6 billion. The increase is driven in part by the new school funding formula approved last year that is supposed to direct the most state resources to schools most in need of help. The new formula is designed to narrow the huge spending gap that exists between wealthy and poor school districts. Currently, school districts range from having 46 percent of the resources they need to provide a quality education to 284 percent. If the ISBE budget recommendation were adopted, it would result in all of the state’s 852 school districts having 90 percent of the resources they need to provide a quality education, education officials said. “Our new funding formula is grounded in equity and recognizes that children and families across the state are situated differently,” state school superintendent Tony Smith said in a statement. “But the formula alone does not address the deep inequity we see. We now have to fund this formula to create the conditions for every child to thrive.” At the same time, education board members were reminded Wednesday that preliminary estimates put the state’s revenue growth — without additional tax hikes — at $600 million to $800 million next year. Nonetheless, the board seek the large increase to reinforce how much the state needs to put into education to fix unequal school funding. Sen. Andy Manar, D-Bunker Hill, who spearheaded the effort to change the funding formula, called the board’s request “bold.” “I view the board’s actions as setting a high bar and reinforcing the need to address inequity. That’s going to take resources, Manar said. Manar was part of a school funding reform commission that recommended changes to the way the state funds public schools. The commission, though, recommended that additional funding to reach the goal of adequacy should be phased in over a 10-year period. Gov. Bruce Rauner, who will outline his latest budget proposal next month, is not required to follow the ISBE recommendations. His office said the governor has proposed education funding increases in previous budgets, but also noted that the commission recommended phasing in a large increase over several years. The state Board of Education is recommending increased funding in next year’s budget even as school districts still wait to get the additional K-12 money put into this year’s budget. Schools continue to receive the amount of money they got in the previous year, but additional money was supposed to be distributed using the new funding formula.

#### Their internal link relies on increasing nationalism, which is definitely non-unique in the squo.

#### Missing internal link – their impact assumes *nation-states* compete, not states alone which means federalism solves

#### Economic decline doesn’t cause war. Clary 15

Clary 15 – Christopher Clary, former International Affairs Fellow in India at the Council on Foreign Relations, Postdoctoral Fellow at the Watson Institute at Brown University, Adjunct Staff Member @ RAND Corporation, Security Studies Program @ MIT, country director for South Asian affairs in the Office of the Secretary of Defense, former Research Fellow @ the Harvard Kennedy School's Belfer Center for Science and International Affairs, former research associate in the Department of National Security Affairs at the Naval Postgraduate School, BA from Wichita State University and an MA from the U.S. Naval Postgraduate School, 2015 (“Economic Stress and International Cooperation: Evidence from International Rivalries,” Massachusetts Institute of Technology Political Science Department Research Paper No. 2015-­‐8, “Economic Stress and International Cooperation: Evidence from International Rivalries,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2597712)

Do economic downturns generate pressure for diversionary conflict? Or might downturns encourage austerity and economizing behavior in foreign policy? This paper provides new evidence that economic stress is associated with conciliatory policies between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on data from 109 distinct rival dyads since 1950, 67 of which terminated, the evidence suggests rivalries were approximately twice as likely to terminate during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may result from economic troubles.∂ Defining and Measuring Rivalry and Rivalry Termination∂ I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically.∂ This definition draws on a growing quantitative literature most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant politicalmilitary threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further:∂ The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3∂ Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from 1494 to 2010 that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and∂ Dreyer record the existence of a rivalry.5∂ Why Might Economic Crisis Cause Rivalry Termination?∂ Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

### AT: Court Packing

#### Size of the link matters – charge bargaining, count bargaining, and fact bargaining still exist; the aff only eliminates a form of sentence bargaining, so the impact isn’t triggered

#### Thumper – courts already clogged as a result of Trump’s heightened deportation policy and DACA repeal

Yang & Marks 9/18 [(John, American Peabody Award-winning television news correspondent and commentator, & Dana Leigh, judge in San Francisco for more than three decades and President of the National Association of Immigration Judges) “How a ‘dire’ immigration court backlog affects lives” PBS Newshour, 9/18/17, https://www.pbs.org/newshour/show/dire-immigration-court-backlog-affects-lives DOA 1/8/18] CW

JUDGE DANA LEIGH MARKS: What’s been difficult for us is that the backlog has been growing for over a decade. For various reasons, the immigration courts have not been a priority for budgeting. And the amount of money that has gone to immigration law enforcement has not included an equivalent amount of additional funding for the courts. So, we have been struggling. And over the past few years, it’s just become dire. The courts are basically on the verge of complete — being completely overwhelmed and collapsing under the caseload. JOHN YANG: Now, President Trump rescinded DACA, the program. He said it will sunset in six months. Congress may try to do something about it. But if it — if that program were to go away in March 2018, what would that do to the backlog? What would that do to the immigration courts? JUDGE DANA LEIGH MARKS: The estimate on how many people are here under the DACA program ranges from 700,000 to 800,000. We don’t know how many of those individuals already had cases in immigration court. But if even 100,000 of them did, those cases could immediately be reopened. And you can imagine what such an action would do for the court dockets, that we would instantly be inundated with an additional tens of thousands, maybe hundreds of thousands of live, pending cases to begin to put on our dockets again.

#### The link is empirically denied – plea bargaining doesn’t prevent clogging

Sharp 06

Paul, Associate Professor at the Department of Business and Economics at the University of Southern Denmark, Of the Sharks, by the Sharks, for the Sharks, p.264-5, msm

Still, defenders constantly parrot their cry that the process of justice (such as it is) would become hopelessly mired if plea bargaining were eliminated. But this is plainly unsupported. "...[T]his 'system would become clogged' rationale is a myth. Plea Bargaining has been successfully abolished when those in the system have wanted to make a ban work: in Alaska; in New Orleans, Louisiana; in Oakland County (Pontiac), Michigan; in Ventura County, California; and in a petri dish example, in New Philadelphia, Ohio. Stripped of the only reason for which courts have tolerated the prac-tice, plea bargaining stands naked against the winds of justice."

#### Unclogging the courts means Trump would focus on deportations, not court expansion. Schatz 3/31

Schatz, Bryan. “Our Immigration Courts Can't Handle Millions of Deportations.” Mother Jones, Mother Jones and the Foundation for National Progress, 31 Mar. 2017, 10:00 AM, www.motherjones.com/politics/2017/03/immigration-court-deportations-trump-asylum/.Bryan covers social issues, foreign affairs, and subcultures. Currently writing at Mother Jones. Most engaged when reporting from inside prisons or talking with Syrian refugees. //nhs-VA

Kelly is correct that immigration courts are swamped. There are currently more than 542,000 cases pending before 301 immigration judges, according to records obtained by the Transactional Records Access Clearinghouse at Syracuse University. Only about 280 of those judges hear cases, and they may have as many as 1,500 cases on their dockets at any given time. They often hear 30 or more cases a day, and complete nearly 800 cases per year. In comparison, federal district judges generally complete 500 cases a year. For more than a decade, advocates have been calling for more immigration judges, without much luck. In 2006, then-Attorney General Alberto Gonzales called for more resources, including 40 new judges, to deal with what was then a backlog of 169,000 cases. (He then tried to fill those spots with Republican loyalists, and later resigned amid a scandal over politicized hiring at the DOJ.) Last year, Human Rights First, an international human rights organization, calculated that 524judges completing 500 cases per year would eliminate the backlog by 2023. The backlog is an obvious barrier to Trump’s stated goal of rapidly deporting two to three million people. Kelly’s memo acknowledged the need to hire additional judges, and the administration’s budget proposal includes funding for 75 more judges and support staff. Its plan to redeploy judges to particularly busy jurisdictions won’t make much dent in the overall caseload, however, Marks says. “They are taking judges from existing dockets and moving them temporarily to assignments at the border area and to courts that have been identified,” she says. “What happens to the docket that gets left behind?” Juggling dockets in this way “causes chaos and makes the whole system unsustainable,” says B. Shaw Drake, a fellow at Human Rights First. “You’re bringing judges in, you’re assigning them a caseload, but that means their caseloads in whatever cities they’re currently assigned to are going to be delayed even further.” As it stands, cases can already take several years to complete, and extending the already lengthy process by putting ongoing cases on hold leaves the most vulnerable immigrants, especially asylum seekers, in limbo. Michelle Brané, the director of the Women’s Refugee Commission‘s Migrant Rights and Justice program, says, “Nobody who has a valid asylum claim wants to be waiting around for five years. It makes it more difficult to gather information, the information gets stale, witnesses disappear, people get settled and then if they lose it’s much harder to leave. And all of those years are spent in fear and anxiety and uncertainty for those people who’ve fled violence.” The longer a case is delayed, the more difficult it is to argue. Even without delays, Marks notes, “I often say that we do death penalty cases in a traffic court setting. With the case of an asylum seeker—that’s life or death.” Marks argues that it also looks bad. “The ‘deployment’ of judges to the border—just the word feels inappropriate to a lot of judges. It does imply a military force, and while we are related to immigration law enforcement, we are supposed to be neutral adjudicators. We want to be the most efficient and effective in deciding the cases in front of us, and there shouldn’t be any kind of feeling that there is a political basis for influencing how those decisions are made. In law appearances are very important.” The appearance of impartiality in immigration court is already fragile. Unlike other federal court systems, which operate as a separate branch of government under Article I of the constitution, immigration court is a overseen by the Department of Justice. Immigration judges are attorneys who have been hired to serve as judges. Their bosses work for the executive branch and their politics may influence how they want the courtroom process to function. Unlike federal judges, who enjoy broad independence, immigration judges may be disciplined like other federal employees. “That means I can be at risk of losing my job for a good-faith legal decision,” says Marks, who has served since1987. “All of a sudden it doesn’t sound so judicial. Because of our unusual structure, judges are at risk, and that has a chilling effect.” Of course, seeing an immigration judge is usually better than never having the opportunity to do so. Marks calls Kelly’s decision to use the courts’ massive backlog as a reason to bypass the court system by expanding expedited removal “very disturbing.” And while this move may clear dockets and reduce costs, it would be at the expense of immigrants’ due-process rights, says Drake. “If you aim to address to the backlog through the expansion of expedited removal and not adding additional judges, then you’re trying to reduce the backlog through keeping more people out of the system to begin with.” And many of those people might have a good shot at staying the country, Brané says. During the child migrant crisis of 2014, when tens of thousands of unaccompanied kids showed up at the southern border, “several planeloads of people were deported before we were able to prove that they had asylum claims.” Of the families that were not deported, says Brané, at least 80 percent qualified for the next step in the asylum process.

#### Trump has already been packing judges, so the case solves the DA – it provides a buffer against Trump’s policies. Aron 1/10

Aron, Nan. “Trump Is Packing the Courts with Ultra-Conservative Judges.” Newsweek, 10 Jan. 2018, www.newsweek.com/trump-packing-courts-ultra-conservative-judges-777117. Nan Aron is the founder and president of Alliance for Justice. //nhs-VA

* Circuit court confirmations key
* Their ev assumes the Calabresi proposal

Despite the recent ramming through of the tax bill, and with the mushrooming Russia scandal threatening to envelop it at any moment, the administration has doubled down on one commitment it knows will make its hard-right base happy: appointing judges. Tranche after tranche of judicial nominations has come forward; what is abundantly clear is that the vetting of many nominees has been cursory or nonexistent. While some nominees have résumés that look like those of traditional GOP nominees of the past, a growing number do not. The marquee examples of this egregious lowering of standards were Brett Talley, Jeff Mateer and Matthew Petersen. Talley was a thirtysomething nominee for a federal court in Alabama who had never tried a case and had less than three years’ total legal experience. What he did have was a lengthy history as a Republican speechwriter and blogger and a spouse who works in the White House. Had anyone vetting Talley probed his social media activity, which he did not disclose to the Senate, she would have seen writing that looked suspiciously like a defense of Ku Klux Klan activities in the 19th century. Mateer is an anti-LGBTQ crusader so rabid that he publicly denounced transgender children— *children* —as “Satan’s plan.” Petersen’s inability to answer basic law school questions at his confirmation hearing was so awkward that it became the subject of viral videos. As it turned out, these nominations were a bridge too far even for die-hard GOP partisans on the Senate Judiciary Committee: all three were scuttled. But the wobbling on these nominations is the exception, not the rule: the Trump administration lately has been touting its record-breaking number of circuit court confirmations. Among many other woefully unfit appointees is John Bush, confirmed this year to a seat on the 6th Circuit Court of Appeals, who blogged anonymously for years, spreading racist birther theories about President Obama and mean-spirited attacks against Obama, LGBTQ rights, and an assortment of people and positions he disliked. A nominee in North Carolina, Thomas Farr, appears to have misled the Senate Judiciary Committee about his role as a lawyer for Jesse Helms’s Senate campaign, in one of the sleaziest voter-suppression scams ever perpetrated: a mass mailing of postcards to African-American voters warning that they might not be legally registered to vote and could be prosecuted for voter fraud. His nomination remains on track. In a climate in which harassment of women in the workplace is in the national spotlight, Don Willett, just confirmed to the 5th Circuit, harbors attitudes that cause deep concern. While working in Texas state government, he aggressively belittled problems faced by working women, ridiculing “talk of ‘glass ceilings’” and dismissing concerns regarding “sexual discrimination/harassment.” Willett carried his hostility to the Texas Supreme Court, where, as a justice, he ruled to weaken laws that protect women against discrimination, sexual harassment, and sexual assault. It’s not just the quality of nominees that has suffered. This administration and GOP-led Senate have taken a wrecking ball to norms that governed the nomination process for decades. Bipartisan consultation with nominees’ home-state senators is dead. The hundred-year-old “blue-slip” tradition, giving home-state senators the go-ahead for nominations to proceed, was just junked. Likewise, the ratings produced by the American Bar Association no longer count: this administration pushed four nominees rated “Not Qualified” by ABA evaluators. In past administrations, such ratings would typically force a candidate out of the running; not today, when the administration and its allies exclusively seek party loyalists, preferably in early middle age, who will sit on the bench for decades.

### AT: Court Clog

#### No link – cases get sent to immigration court, not civil court

#### No link – charge bargaining, count bargaining, and fact bargaining still exist; the aff only eliminates a form of sentence bargaining

#### No court clog – empirically proven in multiple cases

Fine 87 [(Ralph Adam, Judge, Circuit Court of Milwaukee County, Wisconsin; Author, ESCAPE OF THE GUILTY) “Plea Bargaining: An Unnecessary Evil,” 70 Marq. L. Rev. 615 (1987) https://danwin1210.me/uploads/Plea%20Bargaining-%20An%20Unnecessary%20Evil.pdf DOA 1/9/18] CW

Most defenders of plea bargaining believe that without it an already overburdened criminal justice system would grind to a halt. Thus, for example, the Wisconsin Supreme Court has recognized that "plea bargaining is accepted pragmati cally as a device to speed litigation .... 6 As we shall see, however, this "system would become clogged" rationale is a myth. Plea bargaining has been successfully abolished when those in the system have wanted to make a ban work: in Alaska; in New Orleans, Louisiana; in Oakland County (Pontiac) Michigan; in Ventura County, California; and, in a petri dish example, in New Philadelphia, Ohio. Stripped of the only reason for which courts have tolerated the practice, plea bargaining stands naked against the winds of justice.

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#### Turn – unclogging the courts means Trump tries to expedite the deportation process. Schatz 3/31

Schatz, Bryan. “Our Immigration Courts Can't Handle Millions of Deportations.” Mother Jones, Mother Jones and the Foundation for National Progress, 31 Mar. 2017, 10:00 AM, www.motherjones.com/politics/2017/03/immigration-court-deportations-trump-asylum/.Bryan covers social issues, foreign affairs, and subcultures. Currently writing at Mother Jones. Most engaged when reporting from inside prisons or talking with Syrian refugees. //nhs-VA

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Even without delays, Marks notes, “I often say that we do death penalty cases in a traffic court setting. With the case of an asylum seeker—that’s life or death.” Marks argues that it also looks bad. “The ‘deployment’ of judges to the border—just the word feels inappropriate to a lot of judges. It does imply a military force, and while we are related to immigration law enforcement, we are supposed to be neutral adjudicators. We want to be the most efficient and effective in deciding the cases in front of us, and there shouldn’t be any kind of feeling that there is a political basis for influencing how those decisions are made. In law appearances are very important.” The appearance of impartiality in immigration court is already fragile. Unlike other federal court systems, which operate as a separate branch of government under Article I of the constitution, immigration court is a overseen by the Department of Justice. Immigration judges are attorneys who have been hired to serve as judges. Their bosses work for the executive branch and their politics may influence how they want the courtroom process to function. Unlike federal judges, who enjoy broad independence, immigration judges may be disciplined like other federal employees. “That means I can be at risk of losing my job for a good-faith legal decision,” says Marks, who has served since1987. “All of a sudden it doesn’t sound so judicial. Because of our unusual structure, judges are at risk, and that has a chilling effect.” Of course, seeing an immigration judge is usually better than never having the opportunity to do so. Marks calls Kelly’s decision to use the courts’ massive backlog as a reason to bypass the court system by expanding expedited removal “very disturbing.” And while this move may clear dockets and reduce costs, it would be at the expense of immigrants’ due-process rights, says Drake. “If you aim to address to the backlog through the expansion of expedited removal and not adding additional judges, then you’re trying to reduce the backlog through keeping more people out of the system to begin with.” And many of those people might have a good shot at staying the country, Brané says. During the child migrant crisis of 2014, when tens of thousands of unaccompanied kids showed up at the southern border, “several planeloads of people were deported before we were able to prove that they had asylum claims.” Of the families that were not deported, says Brané, at least 80 percent qualified for the next step in the asylum process.

### AT: Cartels

#### Convicting noncitizens for misdemeanor crimes to gain knowledge about cartels is racist – it justifies an endless dependency on the state to give them freedom and risks death when infiltrating cartels; that’s a D-rule: the belief that racism is permissible excludes debaters who cannot engage with that assumption.

Memmi ’00 [Albert is a Professor Emeritus of Sociology @ Unv. Of Paris, Albert-; RACISM, translated by Steve Martinot,]

The struggle against racism will be long, difficult, without intermission, without remission, probably never achieved, yet for this very reason, it is a struggle to be undertaken without surcease and without concessions. One cannot be indulgent toward racism. One cannot even let the monster in the house, especially not in a mask. To give it merely a foothold means to augment the bestial part in us and in other people which is to diminish what is human. To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence. It is to accept the persistence of the dark history in which we still largely live. It is to agree that the outsider will always be a possible victim (and which [person] man is not [themself] himself an outsider relative to someone else?). Racism illustrates in sum, the inevitable negativity of the condition of the dominated; that is it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animality to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one’s moral conduct only emerges from a choice: one has to want it. It is a choice among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that the choice to conduct oneself morally is the condition for the establishment of a human order for which racism is the very negation. This is almost a redundancy. One cannot found a moral order, let alone a legislative order, on racism because racism signifies the exclusion of the other and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is “the truly capital sin.” 22 It is not an accident that almost all of humanity’s spiritual traditions counsel respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical counsel respect for the weak, for orphans, widows or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, we have an interest in banishing injustice, because injustice engenders violence and death. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. But no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. “Recall,” says the bible, “that you were once a stranger in Egypt,” which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming once again someday. It is an ethical and a practical appeal – indeed, it is a contract, however implicit it might be. In short, the refusal of racism is the condition for all theoretical and practical morality. Because, in the end, the ethical choice commands the political choice. A just society must be a society accepted by all. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday to live in peace. True, it is a wager, but the stakes are irresistible.

#### Cartels booming now. Davis 17

[Kristina Davis, 12-14-2017, "Potency, purity of drugs reaching even higher levels," sunherald, <http://www.sunherald.com/news/health/article189874204.html>] nhs-GA

\*Brackets for clarity

When U.S. laws restricted the sale of precursor chemicals needed to make methamphetamine, its production moved from domestic home labs to massive labs in Mexico run by cartels. But consumption of the drug has kept a strong foothold in the nation and San Diego County. The drug is being sold in nearly pure form these days. Purity in 2016 was around 93 to 96 percent with prices low and stable, indicating an oversupply, according to the DEA’s 2017 National Drug Threat Assessment. A 93 percent pure gram was going for $58 in 2016. To counteract the falling prices, organizations are trying to market more to the East Coast and hook new users, authorities said. The Mexican labs are also coming up with new methods to make the drug so they don’t have to rely on getting precursor chemicals from China, a supply chain that is being heavily scrutinized, the DEA reported. Survey and treatment data shows demand for meth may be increasing. In San Diego County, deaths, reported usage and reported availability all rose over the past five years, according to the Methamphetamine Strike Force 2016 Report Card. Fentanyl, a prescription drug that has been around for decades, has been used as a painkiller and anesthetic in clinical settings. Most of the fentanyl in the U.S. illegal market is either being made in Mexican cartel labs or is being mailed in much smaller quantities from China. It is not complicated to cut fentanyl into other drugs or make into pills, which can be especially deadly to users in the hands of an amateur mixologist. It is cheaper and easier to produce than heroin, which is produced from poppy crops, and is often deceptively marketed on the street as heroin or oxycodone pills to opioid addicts. The fentanyl being seized coming across the U.S.-Mexico border in San Diego is typically 4 to 6 percent pure, already diluted considerably by the cartels, said Roderick. The smaller quantities being mailed from China are much more pure, often 90 percent or higher, according to the DEA. A wholesale kilogram of fentanyl in San Diego County goes for about $31,000, Roderick said. The prices increase the farther from the border. “We’re seeing more fentanyl than any other DEA lab in the country due to the fact we are at the border,” said Roderick. Heroin in San Diego County comes exclusively from Mexico, and with boosts in farming production there, the country is now the primary source of heroin for the U.S. Lab tests show Mexican powder heroin is extremely pure, especially on the East Coast, more than the typical 40 to 50 percent dilution in that market, the DEA reported. In San Diego in 2015 heroin was testing 35 percent pure, continuing an upward trend over the past few years. Mexican black tar heroin, which has traditionally been the heroin of choice in San Diego, has also been increasingly replaced by refined white or brown powder heroin — another result of the opioid epidemic. “Prescription drug users don’t want black tar heroin,” Roderick said. “That looks nasty; they want something nice and pretty.” A designer drug marketed as “China White,” a name that used to mean heroin now means fentanyl or perhaps an even stronger fentanyl derivative. “The illicit fentanyl and heroin markets are so intertwined it is difficult to gauge how much heroin market share fentanyl has gained,” the DEA stated in its 2017 assessment. Cocaine appears to coming back into fashion after its 1970s and ’80s heyday. “Cocaine is really coming back with a bang,” Roderick said. “I expect purity to go up and prices to start back up.” Opioid addicts have been drawn to the drug recently, she said, and “speedballing” — mixing heroin and cocaine to balance the stimulant and depressant effects of the drugs — is becoming more popular again. Coca production has been increasing in Colombia in recent years with the end to aerial fumigation and a financial incentive program promising to pay farmers for their illicit crops if they turn to legal ones. While the average purity of a gram of cocaine in the U.S. has remained relatively stable in the past several years — around 45 to 49 percent — it increased to 56 percent last year. The price has dropped since then, to $165 per gram. “Since 2007, average annual cocaine purity in the United States has had a relatively strong relationship with Colombian cocaine production, although the relationship between cocaine production and domestic prices is weak,” the DEA reports. “This may mean other factors, including competition within drug markets, and changes in the user population, have more influence on domestic prices than previously recognized.” This isn’t your parents’ pot. Marijuana has gotten increasingly stronger over the decades as the demand for designer crops has grown, the drug is decriminalized around the country and innovation flourishes. It’s a phenomenon tracked in part by the University of Mississippi’s Potency Monitoring Program, which tests law enforcement seizures from around the nation. Mexico is the primary foreign source for marijuana, although marijuana is being grown increasingly in the U.S. as it is legalized in many states. While Mexican marijuana is thought to be lower grade, law enforcement reporting indicates cartels are increasing the quality to stay competitive[ness], according to the DEA. Traditional marijuana, the leafy kind, averaged a THC potency of 11 percent in 2015 — three times the amount in 1995, according to the seizure data. (Potency is the dosage needed to affect a person, versus purity, which is the amount of drug in a sample.) The highest level of THC — the component that creates a high — tested was 37 percent. Concentrated marijuana, known as hash oil, is incredibly more potent, with a national average of 56 percent purity in 2015, according to the university’s seizure data. Concentrated marijuana is found in vaporizers, edibles, tablets and lotions, and is how many new or experimental users might experience legalized recreational marijuana. Some hash oil seizures tested above 90 percent potency, the university reported. The legal market shows even higher typical potency levels — 20 percent in traditional marijuana and 60 percent in concentrate being commonplace in Washington state, according to a 2017 study by Rand. Potential users in legal states need to remember that this isn’t the same weed they smoked in college, experts say. “The purity is so much higher and you run the risk of ending up hurting yourself,” Roderick said. Pacula at Rand is part of a group of experts working to identify standard doses of marijuana that can be recommended in its various forms — an area of research lacking in the U.S. due to marijuana still being illegal under federal law.

#### Turn - prosecutorial discretion and the War on Drugs worsens cartel violence.

Human Rights Watch 17 [(Human Rights Watch, ) US: Sessions’ Misguided Sentencing Policy, 6-21-2017] AT

(Washington) – US Attorney General Jeff Sessions’ May 12, 2017, memorandum outlining new charging and sentencing policies will result in disproportionately severe sentences and drive up the number of people needlessly incarcerated, Human Rights Watch said in a detailed question-and-answer document released today. The document includes analysis of the impact of earlier Justice Department guidance for prosecutors on incarceration rates, as well as information about the likely impact of Sessions’ policy guidance on incarceration and drug use in the United States. “At a time of growing bipartisan consensus in favor of sentencing reform, Attorney General Sessions is stubbornly clinging to the same old drug war policies of the 1980s and 90s,” said Maria McFarland Sánchez-Moreno, US program co-director at Human Rights Watch. “Seeking the harshest possible sentences will do nothing to further health or public safety, and will instead further fuel over-incarceration and erode the legitimacy of the justice system.” The Sessions memo limits the discretion of federal prosecutors, instructing them to pursue the most serious charge, defined as the one that carries the most severe punishment, available to them. It turns back the clock on recent Justice Department efforts to reduce excessive sentencing, and runs contrary to national bipartisan movements in favor of sentencing and drug policy reform. Sessions has justified his new policy as necessary to combat drug trafficking and what he portrays as rising violent crime in the US. In fact, violent crime has dropped steadily and significantly since the 1990s, as reflected in the data Human Rights Watch analyzed – Sessions’ claims about increases are hyperbolic. The Q&A also notes that harsh sentencing policies have failed to meaningfully reduce problematic drug use or supply. Instead, their primary impact has been to inflict serious damage on the people affected, many of whom are sentenced to long prison terms for non-violent, relatively minor crimes, as well as to their families and communities. Those affected are disproportionately Black and Latino, even though people of different races use drugs at the same rates. At a time of growing bipartisan consensus in favor of sentencing reform, Attorney General Sessions is stubbornly clinging to the same old drug war policies of the 1980s and 90s. Additional data in the Q&A shows dramatic increases in federal drug control spending – over US$343 billion since 2004 – even as drug use remained stable, or increased slightly. Meanwhile, the government’s policies have worsened insecurity by fueling the vast illicit market in drugs, to the benefit of organized criminal groups that victimize vulnerable communities and undermine human rights and the rule of law in many countries. The new guidelines come at a time when federal prosecutors have been filing fewer drug cases with mandatory minimums and offenders have been receiving lower average sentences, resulting in a slight reduction in federal prison populations in 2015, as documented in the Q&A. “Sessions’ misguided approach to drugs and sentencing will have devastating effects at a time when progress was just beginning in earnest,” said McFarland Sánchez-Moreno. “It’s now up to Congress and the states to ensure the US continues on a path toward ending over-incarceration and approaching drugs as a health, rather than a criminal justice, matter.”

#### The war on drugs will independently destabilize the region

Skaff 9 – Richard, Reverend. Writes for Global Research (“Destabilizing Mexico” Global Research, March 13, 2009, https://www.globalresearch.ca/destabilizing-mexico/12707) SJDI

Attorney General Eric Holder stated on February 25, 2009 that Mexican drug cartels pose a national security threat, and issued a direct warning to these cartels that they will be destroyed. The warning came as the attorney general and acting Drug Enforcement Administration chief Michele Leonhart announced the completion of the final phase of DEA’s “Operation Xcellerator,” which targeted the Sinaloa cartel, a major western Mexico drug operation that has been expanding its reach into the United States . [1]. Meanwhile, the blood shed in the Mexican cities continues to be extensive and has expanded its tentacles of violence to various cities in Mexico. Lawlessness, corruption, murders, decapitations, and kidnappings have taken the Mexican cities by a storm, giving rise to a new radical group calling itself the Juarez Citizens Command that is threatening to strike back against lawlessness that has gripped Mexico for a long time. The group stated that they are going to strike back by killing one criminal a day until order and peace is restored. Similar groups are popping up all across Mexico. [2]. In its last report, the US Department of justice disclosed that 17.2 billion dollars in cash entered Mexico in only the past two years as a result of money laundering operation in their country. The report advised that Mexico and Colombia are the principal destinations of narco resources that operate in the US and that “the laundering of drug money is a global industry” with transnational organizations present in various countries. [2]. According to a DEA undercover operative, the Mexican drug cartels have gained more and more of the American market. They have grown bolder in their attempts to expand their operations in Mexico and the United States . They now control the ruling party in Mexico and operate the biggest drug business on earth right here in the USA . [2]. Mexico’s drug and violence problem now engulfs the entire country, inundating cities along the U.S.-Mexico border. The robust drug cartel reduced its position in the western mountains, and lunged into the heart of national power in Mexico City. The capital that was once relatively immune to such contemptuous boldness of drug killings has become the scene of multiple assassinations of high-ranking federal police officials in about a week. More than 1,000 people have been killed in Mexico this year in drug-related violence and about 6,290 in 2008. [11]. Mexican police and soldiers are battling a wave of drug-related violence across the country, particularly in northern areas bordering the US . The Mexican Federal Government launched a campaign against drug-related violence more than two years ago involving the deployment of around 36,000 troops across the country. The situation in Mexico has become so dire and out of control that U.S. Defense secretary Gates stated on March 01, 2009 that the US is in the position to provide more help to Mexico in the fight against drug cartels operating near the U.S. border. [4]. Not surprisingly, the violence has over-spilled into the United States . Brian Ross of ABC news reported that Phoenix Arizona has become the kidnapping capital of America , with more incidents than any other city in the world outside of Mexico City , and over 370 cases in 2008 alone. Phoenix police Chief Andy Anderson told ABC news that if the situation doesn’t stop here and is not turned around, it will spread across the nation. Another law enforcement officer compared the Arizona border to that of Pakistan . [5]. Apparently, Mexico is in a losing battle with drug cartels whose escalating violence is providing cover for Marxist insurgents to become active. The newest cartel murderous offensive raises troubling questions about the ability of the Mexican government to provide safety and security for its citizens, and heralds a future of bloody anarchy if officials cannot regain control of the streets. As a result, the United will be coming to the rescue. President Obama recently announced that he was looking at possibly deploying National Guard troops to contain the violence but ruled out immediate military force. [6]. Ironically, while we are beating the drums of national security and intervention, the Associated reported on March 13, 2009 that Forbes magazine ranked Joaquin “El Chapo” Guzman, Mexico’s most violent drug cartels on its list of billionaires, with an estimated $1 billion fortune, at No. 701, between a Swiss oil-trading tycoon and an American chemical heir. Guzman , Mexico ‘s most-wanted fugitive, is believed to head the Sinaloa cartel. President Felipe Calderon said Thursday that “magazines are not only attacking and lying about the situation in Mexico but are also praising criminals.” [8].

#### Economic decline doesn’t cause war. Clary 15

Clary 15 – Christopher Clary, former International Affairs Fellow in India at the Council on Foreign Relations, Postdoctoral Fellow at the Watson Institute at Brown University, Adjunct Staff Member @ RAND Corporation, Security Studies Program @ MIT, country director for South Asian affairs in the Office of the Secretary of Defense, former Research Fellow @ the Harvard Kennedy School's Belfer Center for Science and International Affairs, former research associate in the Department of National Security Affairs at the Naval Postgraduate School, BA from Wichita State University and an MA from the U.S. Naval Postgraduate School, 2015 (“Economic Stress and International Cooperation: Evidence from International Rivalries,” Massachusetts Institute of Technology Political Science Department Research Paper No. 2015-­‐8, “Economic Stress and International Cooperation: Evidence from International Rivalries,” http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2597712)

Do economic downturns generate pressure for diversionary conflict? Or might downturns encourage austerity and economizing behavior in foreign policy? This paper provides new evidence that economic stress is associated with conciliatory policies between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on data from 109 distinct rival dyads since 1950, 67 of which terminated, the evidence suggests rivalries were approximately twice as likely to terminate during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may result from economic troubles.∂ Defining and Measuring Rivalry and Rivalry Termination∂ I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically.∂ This definition draws on a growing quantitative literature most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant politicalmilitary threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further:∂ The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3∂ Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from 1494 to 2010 that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and∂ Dreyer record the existence of a rivalry.5∂ Why Might Economic Crisis Cause Rivalry Termination?∂ Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

#### No WMD or escalation

Weiss 15—Visiting scholar at the Center for International Security and Cooperation at Stanford University, a member of the National Advisory Board of the Center for Arms Control and Non-Proliferation in Washington, DC, and a former professor of applied mathematics and engineering at Brown and the University of Maryland [Leonard, “On fear and nuclear terrorism,” *Bulletin of the Atomic Scientists*, March/April, Vol. 71, No. 2, p. 75-87]

-Need time, planning, resources, experts for nukes – none of these are available for terrorists

-Cannot steal one – overprotected

-High risk of discovery + time required to build a nuke serves as a deterrent

If the fear of nuclear war has thus had some positive effects, the fear of nuclear terrorism has had mainly negative effects on the lives of millions of people around the world, including in the United States, and even affects negatively the prospects for a more peaceful world. Although there has been much commentary on the interest that Osama bin Laden, when he was alive, reportedly expressed in obtaining nuclear weapons (see Mowatt-Larssen, 2010), and some terrorists no doubt desire to obtain such weapons, evidence of any terrorist group working seriously toward the theft of nuclear weapons or the acquisition of such weapons by other means is virtually nonexistent. This may be due to a combination of reasons. Terrorists understand that it is not hard to terrorize a population without committing mass murder: In 2002, a single sniper in the Washington, DC area, operating within his own automobile and with one accomplice, killed 10 people and changed the behavior of virtually the entire populace of the city over a period of three weeks by instilling fear of being a randomly chosen shooting victim when out shopping. Terrorists who believe the commission of violence helps their cause have access to many explosive materials and conventional weapons to ply their “trade.” If public sympathy is important to their cause, an apparent plan or commission of mass murder is not going to help them, and indeed will make their enemies even more implacable, reducing the prospects of achieving their goals. The acquisition of nuclear weapons by terrorists is not like the acquisition of conventional weapons; it requires significant time, planning, resources, and expertise, with no guarantees that an acquired device would work. It requires putting aside at least some aspects of a group’s more immediate activities and goals for an attempted operation that no terrorist group has previously accomplished. While absence of evidence does not mean evidence of absence (as then-Secretary of Defense Donald Rumsfeld kept reminding us during the search for Saddam’s nonexistent nuclear weapons), it is reasonable to conclude that the fear of nuclear terrorism has swamped realistic consideration of the threat. As Brian Jenkins, a longtime observer of terrorist groups, wrote in 2008: Nuclear terrorism … turns out to be a world of truly worrisome particles of truth. Yet it is also a world of fantasies, nightmares, urban legends, fakes, hoaxes, scams, stings, mysterious substances, terrorist boasts, sensational claims, description of vast conspiracies, allegations of coverups, lurid headlines, layers of misinformation and disinformation. Much is inconclusive or contradictory. Only the terror is real. (Jenkins, 2008: 26) The three ways terrorists might get a nuke To illustrate in more detail how fear has distorted the threat of nuclear terrorism, consider the three possibilities for terrorists to obtain a nuclear weapon: steal one; be given one created by a nuclear weapon state; manufacture one. None of these possibilities has a high probability of occurring. Stealing nukes. Nothing is better protected in a nuclear weapon state than the weapons themselves, which have multiple layers of safeguards that, in the United States, include intelligence and surveillance, electronic locks (including so-called “permissive action links” that prevent detonation unless a code is entered into the lock), gated and locked storage facilities, armed guards, and teams of elite responders if an attempt at theft were to occur. We know that most weapon states have such protections, and there is no reason to believe that such protections are missing in the remaining states, since no weapon state would want to put itself at risk of an unintended nuclear detonation of its own weapons by a malevolent agent. Thus, the likelihood of an unauthorized agent secretly planning a theft, without being discovered, and getting access to weapons with the intent and physical ability to carry them off in the face of such layers of protection is extremely low—but it isn’t impossible, especially in the case where the thief is an insider. The insider threat helped give credibility to the stories, circulating about 20 years ago, that there were “loose nukes” in the USSR, based on some statements by a Soviet general who claimed the regime could not account for more than 40 “suitcase nukes” that had been built. The Russian government denied the claim, and at this point there is no evidence that any nukes were ever loose. Now, it is unclear if any such weapon would even work after 20 years of corrosion of both the nuclear and non-nuclear materials in the device and the radioactive decay of certain isotopes. Because of the large number of terrorist groups operating in its geographic vicinity, Pakistan is frequently suggested as a possible candidate for scenarios in which a terrorist group either seizes a weapon via collaboration with insiders sympathetic to its cause, or in which terrorists “inherit” nuclear weapons by taking over the arsenal of a failed nuclear state that has devolved into chaos. Attacks by a terrorist group on a Pakistani military base, at Kamra, which is believed to house nuclear weapons in some form, have been referenced in connection with such security concerns (Nelson and Hussain, 2012). However, the Kamra base contained US fighter planes, including F-16s, used to bomb Taliban bases in tribal areas bordering Afghanistan, so the planes, not nuclear weapons, were the likely target of the terrorists, and in any case the mission was a failure. Moreover, Pakistan is not about to collapse, and the Pakistanis are known to have received major international assistance in technologies for protecting their weapons from unauthorized use, store them in somewhat disassembled fashion at multiple locations, and have a sophisticated nuclear security structure in place (see Gregory, 2013; Khan, 2012). However, the weapons are assembled at times of high tension in the region, and, to keep a degree of uncertainty in their location, they are moved from place to place, making them more vulnerable to seizure at such times (Goldberg and Ambinder, 2011). (It should be noted that US nuclear weapons were subject to such risks during various times when the weapons traveled US highways in disguised trucks and accompanying vehicles, but such travel and the possibility of terrorist seizure was never mentioned publicly.) Such scenarios of seizure in Pakistan would require a major security breakdown within the army leading to a takeover of weapons by a nihilistic terrorist group with little warning, while army loyalists along with India and other interested parties (like the United States) stand by and do not intervene. This is not a particularly realistic scenario, but it’s also not a reason to conclude that Pakistan’s nuclear arsenal is of no concern. It is, not only because of an internal threat, but especially because it raises the possibility of nuclear war with India. For this and other reasons, intelligence agencies in multiple countries spend considerable resources tracking the Pakistani nuclear situation to reduce the likelihood of surprises. But any consideration of Pakistan’s nuclear arsenal does bring home (once again) the folly of US policy in the 1980s, when stopping the Pakistani nuclear program was put on a back burner in order to prosecute the Cold War against the Soviets in Afghanistan (which ultimately led to the establishment of Al Qaeda). Some of the loudest voices expressing concern about nuclear terrorism belong to former senior government officials who supported US assistance to the mujahideen and the accompanying diminution of US opposition to Pakistan’s nuclear activities. Acquiring nukes as a gift. Following the shock of 9/11, government officials and the media imagined many scenarios in which terrorists obtain nuclear weapons; one of those scenarios involves a weapon state using a terrorist group for delivery of a nuclear weapon. There are at least two reasons why this scenario is unlikely: First, once a weapon state loses control of a weapon, it cannot be sure the weapon will be used by the terrorist group as intended. Second, the state cannot be sure that the transfer of the weapon has been undetected either before or after the fact of its detonation (see Lieber and Press, 2013). The use of the weapon by a terrorist group will ultimately result in the transferring nation becoming a nuclear target just as if it had itself detonated the device. This is a powerful deterrent to such a transfer, making the transfer a low-probability event. Although these first two ways in which terrorists might obtain a nuclear weapon have very small probabilities of occurring (there is no available data suggesting that terrorist groups have produced plans for stealing a weapon, nor has there been any public information suggesting that any nuclear weapon state has seriously considered providing a nuclear weapon to a sub-national group), the probabilities cannot be said to be zero as long as nuclear weapons exist. Manufacturing a nuclear weapon. To accomplish this, a terrorist group would have to obtain an appropriate amount of one of the two most popular materials for nuclear weapons, highly enriched uranium (HEU) or plutonium separated from fuel used in a production reactor or a power reactor. Weapon-grade plutonium is found in weapon manufacturing facilities in nuclear weapon states and is very highly protected until it is inserted in a weapon. Reactor-grade plutonium, although still capable of being weaponized, is less protected, and in that sense is a more attractive target for a terrorist, especially since it has been produced and stored in prodigious quantities in a number of nuclear weapon states and non-weapon states, particularly Japan. But terrorist use of plutonium for a nuclear explosive device would require the construction of an implosion weapon, requiring the fashioning of an appropriate explosive lens of TNT, a notoriously difficult technical problem. And if a high nuclear yield (much greater than 1 kiloton) is desired, the use of reactor-grade plutonium would require a still more sophisticated design. Moreover, if the plutonium is only available through chemical separation from some (presumably stolen) spent fuel rods, additional technical complications present themselves. There is at least one study showing that a small team of people with the appropriate technical skills and equipment could, in principle, build a plutonium-based nuclear explosive device (Mark et al., 1986). But even if one discounts the high probability that the plan would be discovered at some stage (missing plutonium or spent fuel rods would put the authorities and intelligence operations under high alert), translating this into a real-world situation suggests an extremely low probability of technical success. More likely, according to one well-known weapon designer,4 would be the death of the person or persons in the attempt to build the device. There is the possibility of an insider threat; in one example, a team of people working at a reactor or reprocessing site could conspire to steal some material and try to hide the diversion as MUF (materials unaccounted for) within the nuclear safeguards system. But this scenario would require intimate knowledge of the materials accounting system on which safeguards in that state are based and adds another layer of complexity to an operation with low probability of success. The situation is different in the case of using highly enriched uranium, which presents fewer technical challenges. Here an implosion design is not necessary, and a “gun type” design is the more likely approach. Fear of this scenario has sometimes been promoted in the literature via the quotation of a famous statement by nuclear physicist Luis Alvarez that dropping a subcritical amount of HEU onto another subcritical amount from a distance of five feet could result in a nuclear yield. The probability of such a yield (and its size) would depend on the geometry of the HEU components and the amount of material. More likely than a substantial nuclear explosion from such a scenario would be a criticality accident that would release an intense burst of radiation, killing persons in the immediate vicinity, or (even less likely) a low-yield nuclear “fizzle” that could be quite damaging locally (like a large TNT explosion) but also carry a psychological effect because of its nuclear dimension. In any case, since the critical mass of a bare metal perfect sphere of pure U-235 is approximately 56 kilograms, stealing that much highly enriched material (and getting away without detection, an armed fight, or a criticality accident) is a major problem for any thief and one significantly greater than the stealing of small amounts of HEU and lower-enriched material that has been reported from time to time over the past two decades, mostly from former Soviet sites that have since had their security greatly strengthened. Moreover, fashioning the material into a form more useful or convenient for explosive purposes could likely mean a need for still more material than suggested above, plus a means for machining it, as would be the case for HEU fuel assemblies from a research reactor. In a recent paper, physics professor B. C. Reed discusses the feasibility of terrorists building a low-yield, gun-type fission weapon, but admittedly avoids the issue of whether the terrorists would likely have the technical ability to carry feasibility to realization and whether the terrorists are likely to be successful in stealing the needed material and hiding their project as it proceeds (Reed, 2014). But this is the crux of the nuclear terrorism issue. There is no argument about feasibility, which has been accepted for decades, even for plutonium-based weapons, ever since Ted Taylor first raised it in the early 1970s5 and a Senate subcommittee held hearings in the late 1970s on a weapon design created by a Harvard dropout from information he obtained from the public section of the Los Alamos National Laboratory library (Fialka, 1978). Likewise, no one can deny the terrible consequences of a nuclear explosion. The question is the level of risk, and what steps are acceptable in a democracy for reducing it. Although the attention in the literature given to nuclear terrorism scenarios involving HEU would suggest major attempts to obtain such material by terrorist groups, there is only one known case of a major theft of HEU. It involves a US government contractor processing HEU for the US Navy in Apollo, Pennsylvania in the 1970s at a time when security and materials accounting were extremely lax. The theft was almost surely carried out by agents of the Israeli government with the probable involvement of a person or persons working for the contractor, not a sub-national terrorist group intent on making its own weapons (Gilinsky and Mattson, 2010). The circumstances under which this theft occurred were unique, and there was significant information about the contractor’s relationship to Israel that should have rung alarm bells and would do so today. Although it involved a government and not a sub-national group, the theft underscores the importance of security and accounting of nuclear materials, especially because the technical requirements for making an HEU weapon are less daunting than for a plutonium weapon, and the probability of success by a terrorist group, though low, is certainly greater than zero. Over the past two decades, there has been a significant effort to increase protection of such materials, particularly in recent years through the efforts of nongovernmental organizations like the International Panel on Fissile Materials6 and advocates like Matthew Bunn working within the Obama administration (Bunn and Newman, 2008), though the administration has apparently not seen the need to make the materials as secure as the weapons themselves. Are terrorists even interested in making their own nuclear weapons? A recent paper (Friedman and Lewis, 2014) postulates a scenario by which terrorists might seize nuclear materials in Pakistan for fashioning a weapon. While jihadist sympathizers are known to have worked within the Pakistani nuclear establishment, there is little to no evidence that terrorist groups in or outside the region are seriously trying to obtain a nuclear capability. And Pakistan has been operating a uranium enrichment plant for its weapons program for nearly 30 years with no credible reports of diversion of HEU from the plant. There is one stark example of a terrorist organization that actually started a nuclear effort: the Aum Shinrikyo group. At its peak, this religious cult had a membership estimated in the tens of thousands spread over a variety of countries, including Japan; its members had scientific expertise in many areas; and the group was well funded. Aum Shinrikyo obtained access to natural uranium supplies, but the nuclear weapon effort stalled and was abandoned. The group was also interested in chemical weapons and did produce sarin nerve gas with which they attacked the Tokyo subway system, killing 13 persons. Aum Shinrikyo is now a small organization under continuing close surveillance. What about highly organized groups, designated appropriately as terrorist, that have acquired enough territory to enable them to operate in a quasi-governmental fashion, like the Islamic State (IS)? Such organizations are certainly dangerous, but how would nuclear terrorism fit in with a program for building and sustaining a new caliphate that would restore past glories of Islamic society, especially since, like any organized government, the Islamic State would itself be vulnerable to nuclear attack? Building a new Islamic state out of radioactive ashes is an unlikely ambition for such groups. However, now that it has become notorious, apocalyptic pronouncements in Western media may begin at any time, warning of the possible acquisition and use of nuclear weapons by IS. Even if a terror group were to achieve technical nuclear proficiency, the time, money, and infrastructure needed to build nuclear weapons creates significant risks of discovery that would put the group at risk of attack. Given the ease of obtaining conventional explosives and the ability to deploy them, a terrorist group is unlikely to exchange a big part of its operational program to engage in a risky nuclear development effort with such doubtful prospects. And, of course, 9/11 has heightened sensitivity to the need for protection, lowering further the probability of a successful effort.

### AT: Pompeo Confirmation

#### Pompeo doesn’t get confirmed

Raju ’18 (Manu Raju, 4/12/18, “Pompeo may fall short of majority support on Senate committee,” <https://www.cnn.com/2018/04/12/politics/mike-pompeo-confirmation-votes/index.html> | SP)

Two key Democrats on the Senate Foreign Relations Committee are signaling they won't back CIA Director Mike Pompeo for secretary of state, a sign that his nomination as the top US diplomat is likely to face a rebuke by falling short of a majority on the panel.

In interviews with CNN, Democratic Sens. Tim Kaine and Jeanne Shaheen -- who sit on the panel and backed Pompeo's nomination to be CIA director -- say they are harboring concerns with the nominee, a clear signal they may vote against him. In addition, Republican Rand Paul also told CNN that the hearing "really solidified" his opposition to Pompeo.

"I voted for him as CIA director and haven't had cause to regret that vote," Kaine told CNN. "But I have serious doubts about whether he's the diplomat that we need right now."

If all three members ultimately vote "no," then Pompeo won't have enough votes to win a favorable recommendation from the committee.

#### Pompeo wants more military involvement in Iran and is key to Trump’s campaign to take down the Iran deal – the impact is massive nuclear conflict. Gude 4/11

Gude, Ken. "Trump, Pompeo, And Bolton: The Path To War - Center For American Progress." *Center for American Progress*. N. p., 4/11/2018. Web. 14 Apr. 2018. Ken Gude is a senior fellow for National Security at American Progress. He also leads several of the organization’s policy initiatives and projects. Gude has worked at American Progress since its founding in 2003—serving in numerous roles, including chief of staff and vice president and managing director of National Security and International Policy. Gude is one of the leading experts on the prison at Guantanamo Bay and the intersection of law and security in the fight against terrorism. Prior to joining American Progress, Gude was a policy analyst at the Center for National Security Studies, where he focused on post-September 11 civil liberties issues. //nhs-VA

President Donald Trump is putting the United States on a dangerous path to devastating wars by shuffling his national security team to assemble a war Cabinet. To fill the position of America’s top diplomat, President Trump has chosen the hawkish current CIA Director Mike Pompeo—a man who notoriously prefers [regime change to diplomacy](http://www.foxnews.com/opinion/2016/07/14/rep-mike-pompeo-one-year-later-obama-s-iran-nuclear-deal-puts-us-at-increased-risk.html). And newly appointed National Security Adviser John R. Bolton was one of the principle architects and defenders of the [Iraq War](https://www.cnn.com/2018/03/23/politics/trump-bush-iraq-war-john-bolton/index.html); wants to [abrogate the Iran deal](https://www.reuters.com/article/us-usa-trump-bolton-tweets-factbox/factbox-want-to-know-how-bolton-will-advise-trump-read-his-tweets-idUSKBN1GY3E3); and appears eager to launch [preventive military strikes](https://www.wsj.com/articles/the-legal-case-for-striking-north-korea-first-1519862374) against North Korea. Both Pompeo and Bolton replace less hawkish advisers and will enable the worst instincts of the already erratic and reckless President Trump. By nominating Pompeo and appointing Bolton, Trump has chosen a path that could lead to war. The stakes are already extremely high: President [Trump simultaneously looks set to withdraw](https://www.politico.com/story/2018/03/18/corker-trump-iran-nuclear-deal-470063) from the Iran nuclear deal—which has successfully prevented Iran from obtaining a nuclear weapon—and is pursuing even more [ambitious negotiations](https://www.cnn.com/2018/04/07/politics/north-korea-us-talks/index.html) with North Korea in order to convince leader Kim Jong-un to abandon any existing nuclear weapons and ballistic missiles. Pompeo and Bolton would exacerbate both of these challenges. While a member of Congress until he became CIA director in 2017, Pompeo was one of the most ardent opponents of reaching a negotiated settlement with Iran over its nuclear program. He worked in concert with Sen. Tom Cotton (R-AR), who [infamously tried to undermine negotiations](https://www.vox.com/2015/3/10/8182063/tom-cottons-controversial-letter-to-iran-explained) by sending a letter directly to Iran’s leaders suggesting that a future Republican administration could revoke the agreement “with the stroke of a pen.” Appearing with Sen. Cotton at a 2014 event to oppose negotiations, Pompeo put forward a military option to eliminate Iran’s nuclear program, saying that it would take, “[under 2,000 sorties](http://www.latimes.com/world/middleeast/la-fg-iran-pompeo-20180314-story.html) to destroy Iranian nuclear capacity,” and adding, “This is not an insurmountable task for the coalition forces.” On the first anniversary of the Iran deal, when all evidence suggested that [Iran was complying](http://thehill.com/policy/defense/352463-top-general-says-iran-complying-with-nuclear-deal) with the terms of the deal that prevented it from obtaining nuclear weapons, Pompeo wrote that “Congress must act to change Iranian behavior, and, ultimately, the [Iranian regime](http://www.foxnews.com/opinion/2016/07/14/rep-mike-pompeo-one-year-later-obama-s-iran-nuclear-deal-puts-us-at-increased-risk.html).” And after President Trump’s election, Pompeo wrote in a [tweet](https://www.vox.com/world/2017/11/30/16719690/mike-pompeo-tillerson-fired-haspel-cia-state-department), “I look forward to rolling back this disastrous deal with the world’s largest state sponsor of terrorism.” As secretary of state, Pompeo will play a key policy role in the Trump administration and will be able to encourage the president to withdraw from the Iran deal. Bolton, too, has consistently opposed negotiations with Iran and favored military strikes. In 2007, Bolton rejected even the possibility of reaching an agreement with Iran that would prevent it from obtaining a nuclear weapon, claiming, “[T]here might have been [a possibility] four years ago, but I think we’ve passed that point. Iran is not going to be [chatted out of its nuclear-weapons ambitions](http://content.time.com/time/subscriber/article/0%2C33009%2C1684527%2C00.html).” Apparently being proved wrong about the effectiveness of the deal does not have any effect on Bolton’s views, as he describes the Iran deal as “a [strategic debacle](http://insider.foxnews.com/2018/03/20/bolton-trumps-iran-meeting-putting-lipstick-pig-wont-make-difference) for the United States” and recommends that it “needs to be [abrogated](https://www.reuters.com/article/us-usa-trump-bolton-tweets-factbox/factbox-want-to-know-how-bolton-will-advise-trump-read-his-tweets-idUSKBN1GY3E3).” Earlier this year, Bolton said, “Our goal should be [regime change in Iran](http://insider.foxnews.com/2018/01/01/john-bolton-trump-us-goal-should-be-regime-change-iran).” President Trump has repeatedly threatened to unilaterally withdraw from the Iran deal. His previous national security team—including outgoing [National Security Adviser H.R. McMaster](https://www.thedailybeast.com/mcmaster-wants-to-save-the-iran-deal-by-hiding-it-from-trump) and former Secretary of State Rex Tillerson—had prevented him from walking away. President Trump even said he was removing Secretary Tillerson [over](https://www.politico.com/magazine/story/2018/03/13/tillersons-ouster-could-kill-the-iran-nuclear-deal-217359) their disagreement on whether the United States should stay in the Iran deal. Replacing them with Bolton and Pompeo will only enable President Trump’s recklessness. In addition to creating a new crisis over Iran’s nuclear program, withdrawing from the Iran deal would complicate current talks with North Korea on its nuclear weapons and missile program. Chairman of the Joint Chiefs of Staff Gen. Joseph Dunford told Congress last year that unilateral withdrawal from the Iran deal in the absence of a material breach by the Iranians “would have an [impact on others’ willingness](https://www.reuters.com/article/us-iran-nuclear-usa/top-u-s-general-says-exiting-iran-nuclear-pact-would-make-future-deals-tough-idUSKCN1C12OF) to sign agreements.” Based on their recent statements, Bolton and Pompeo may prefer that those talks collapse to clear the way for military strikes. Bolton said earlier this year that “talking to North Korea would be [fruitless](http://video.foxnews.com/v/5731742836001/#sp=show-clips).” He followed that up in February, writing, “[I]t is perfectly legitimate for the United States to respond to the current ‘necessity’ posed by North Korea’s nuclear weapons by [striking first](https://www.wsj.com/articles/the-legal-case-for-striking-north-korea-first-1519862374).” And as CIA director, Pompeo suggested that the Trump administration is [considering regime change](https://www.cnn.com/2017/07/20/politics/cia-mike-pompeo-north-korea/index.html). Bolton and Pompeo’s clear and strong preference for military action should be even more alarming considering their record of politicizing intelligence on these and other threats. Bolton was a senior official in the Bush administration during the buildup to the Iraq war. He was—[and remains](https://www.cnn.com/2018/03/23/politics/what-john-bolton-said-iraq-iran-north-korea/index.html)—a staunch supporter of that war and has been accused of [pressuring](https://nsarchive2.gwu.edu/NSAEBB/NSAEBB254/index.htm) State Department and CIA analysts to conform their assessments of Iraq’s weapons of mass destruction programs to his views. And during his time as CIA director, Pompeo was accused of pushing his predetermined view that Iran had been “[cheating](https://www.vanityfair.com/news/2017/10/trumps-cold-war-with-the-cia-could-derail-the-iran-deal)” on the Iran deal—even in the face of evidence and the assessment of the intelligence community that it had not. President Trump, Pompeo, and Bolton will put the United States on the path to a devastating war with North Korea, Iran, or both that would result in hundreds of thousands of deaths and possibly escalate into a nuclear exchange that could kill millions. The United States—and the world—can’t afford to take that risk.

### AT: Guantanamo

#### No link – The DA is describing extradition not deportation. Dictionary.com defines extradition as

“Extradition.” http://www.dictionary.com/browse/extradition. //nhs-VA

the procedure by which a state or nation, upon receipt of a formal request by another state or nation, turns over to that second jurisdiction an individual charged with or convicted of a crime in that jurisdiction.

#### No link – GTMO is neither on US territory, nor are defendants put through the CJS

#### Turn – plea bargaining keeps detainees stuck in a state of pretrial and are ‘forever prisoners.’ NYTimes Editorial Board 15

Editorial Board. “How to Close Guantánamo.” The New York Times, The New York Times, 19 Sept. 2015, www.nytimes.com/2015/09/20/opinion/how-to-close-guantanamo.html?mtrref=www.google.com&gwh=AB126D1609577E3EBE92D6AFD8E640C3&gwt=pay&assetType=opinion. //nhs-VA

In the end, there will be a small number of detainees who will not be charged but who the government says are “too dangerous” to release. The government intends to continue holding them indefinitely as “enemy combatants,” relying on the legal authorizations Congress passed for the wars in Iraq and Afghanistan. This is unacceptable in a country that often lectures other governments for imprisoning people without due process. If the government is unwilling to prosecute these men, it must release them. Tried by Military Tribunals Of the 780 men who have been held at Guantánamo since 2002, only eight have been convicted by military commissions. And courts have already vacated at least four of those convictions. Currently, seven prisoners are being prosecuted by the military commissions, including Khalid Shaikh Mohammed, the alleged mastermind of the Sept. 11 attacks. But those prosecutions have dragged on for years, with no end in sight. The military commissions are a legal farce and a practical failure. If the government wants to prosecute detainees, there is a well-established system in place: the United States federal courts. In contrast to the feckless commissions, federal prosecutors have won convictions in roughly 200 terrorism cases since the Sept. 11 attacks, including that of a former Guantánamo detainee, Ahmed Khalfan Ghailani, who was sentenced to life in prison for his role in the 1998 bombing of American embassies in Africa. A plan to prosecute Mr. Mohammed in federal court in New York City in 2011 fell apart when grandstanding politicians capitalized on the administration’s poor handling of it, sabotaging the clearest path to holding Mr. Mohammed accountable for the terror attacks in a fair proceeding. Of course, any evidence that had been gained through Mr. Mohammed’s torture at a C.I.A. “black site” would have been inadmissible. But Mr. Obama and former Attorney General Eric Holder Jr. were confident that they had enough other evidence to make their case. Four years later, rather than serving a life sentence without parole in a maximum-security prison, Mr. Mohammed and the other Sept. 11 defendants remain stuck in pretrial proceedings at Guantánamo.

#### No WMD or escalation

Weiss 15—Visiting scholar at the Center for International Security and Cooperation at Stanford University, a member of the National Advisory Board of the Center for Arms Control and Non-Proliferation in Washington, DC, and a former professor of applied mathematics and engineering at Brown and the University of Maryland [Leonard, “On fear and nuclear terrorism,” *Bulletin of the Atomic Scientists*, March/April, Vol. 71, No. 2, p. 75-87]

-Need time, planning, resources, experts for nukes – none of these are available for terrorists

-Cannot steal one – overprotected

-High risk of discovery + time required to build a nuke serves as a deterrent

If the fear of nuclear war has thus had some positive effects, the fear of nuclear terrorism has had mainly negative effects on the lives of millions of people around the world, including in the United States, and even affects negatively the prospects for a more peaceful world. Although there has been much commentary on the interest that Osama bin Laden, when he was alive, reportedly expressed in obtaining nuclear weapons (see Mowatt-Larssen, 2010), and some terrorists no doubt desire to obtain such weapons, evidence of any terrorist group working seriously toward the theft of nuclear weapons or the acquisition of such weapons by other means is virtually nonexistent. This may be due to a combination of reasons. Terrorists understand that it is not hard to terrorize a population without committing mass murder: In 2002, a single sniper in the Washington, DC area, operating within his own automobile and with one accomplice, killed 10 people and changed the behavior of virtually the entire populace of the city over a period of three weeks by instilling fear of being a randomly chosen shooting victim when out shopping. Terrorists who believe the commission of violence helps their cause have access to many explosive materials and conventional weapons to ply their “trade.” If public sympathy is important to their cause, an apparent plan or commission of mass murder is not going to help them, and indeed will make their enemies even more implacable, reducing the prospects of achieving their goals. The acquisition of nuclear weapons by terrorists is not like the acquisition of conventional weapons; it requires significant time, planning, resources, and expertise, with no guarantees that an acquired device would work. It requires putting aside at least some aspects of a group’s more immediate activities and goals for an attempted operation that no terrorist group has previously accomplished. While absence of evidence does not mean evidence of absence (as then-Secretary of Defense Donald Rumsfeld kept reminding us during the search for Saddam’s nonexistent nuclear weapons), it is reasonable to conclude that the fear of nuclear terrorism has swamped realistic consideration of the threat. As Brian Jenkins, a longtime observer of terrorist groups, wrote in 2008: Nuclear terrorism … turns out to be a world of truly worrisome particles of truth. Yet it is also a world of fantasies, nightmares, urban legends, fakes, hoaxes, scams, stings, mysterious substances, terrorist boasts, sensational claims, description of vast conspiracies, allegations of coverups, lurid headlines, layers of misinformation and disinformation. Much is inconclusive or contradictory. Only the terror is real. (Jenkins, 2008: 26) The three ways terrorists might get a nuke To illustrate in more detail how fear has distorted the threat of nuclear terrorism, consider the three possibilities for terrorists to obtain a nuclear weapon: steal one; be given one created by a nuclear weapon state; manufacture one. None of these possibilities has a high probability of occurring. Stealing nukes. Nothing is better protected in a nuclear weapon state than the weapons themselves, which have multiple layers of safeguards that, in the United States, include intelligence and surveillance, electronic locks (including so-called “permissive action links” that prevent detonation unless a code is entered into the lock), gated and locked storage facilities, armed guards, and teams of elite responders if an attempt at theft were to occur. We know that most weapon states have such protections, and there is no reason to believe that such protections are missing in the remaining states, since no weapon state would want to put itself at risk of an unintended nuclear detonation of its own weapons by a malevolent agent. Thus, the likelihood of an unauthorized agent secretly planning a theft, without being discovered, and getting access to weapons with the intent and physical ability to carry them off in the face of such layers of protection is extremely low—but it isn’t impossible, especially in the case where the thief is an insider. The insider threat helped give credibility to the stories, circulating about 20 years ago, that there were “loose nukes” in the USSR, based on some statements by a Soviet general who claimed the regime could not account for more than 40 “suitcase nukes” that had been built. The Russian government denied the claim, and at this point there is no evidence that any nukes were ever loose. Now, it is unclear if any such weapon would even work after 20 years of corrosion of both the nuclear and non-nuclear materials in the device and the radioactive decay of certain isotopes. Because of the large number of terrorist groups operating in its geographic vicinity, Pakistan is frequently suggested as a possible candidate for scenarios in which a terrorist group either seizes a weapon via collaboration with insiders sympathetic to its cause, or in which terrorists “inherit” nuclear weapons by taking over the arsenal of a failed nuclear state that has devolved into chaos. Attacks by a terrorist group on a Pakistani military base, at Kamra, which is believed to house nuclear weapons in some form, have been referenced in connection with such security concerns (Nelson and Hussain, 2012). However, the Kamra base contained US fighter planes, including F-16s, used to bomb Taliban bases in tribal areas bordering Afghanistan, so the planes, not nuclear weapons, were the likely target of the terrorists, and in any case the mission was a failure. Moreover, Pakistan is not about to collapse, and the Pakistanis are known to have received major international assistance in technologies for protecting their weapons from unauthorized use, store them in somewhat disassembled fashion at multiple locations, and have a sophisticated nuclear security structure in place (see Gregory, 2013; Khan, 2012). However, the weapons are assembled at times of high tension in the region, and, to keep a degree of uncertainty in their location, they are moved from place to place, making them more vulnerable to seizure at such times (Goldberg and Ambinder, 2011). (It should be noted that US nuclear weapons were subject to such risks during various times when the weapons traveled US highways in disguised trucks and accompanying vehicles, but such travel and the possibility of terrorist seizure was never mentioned publicly.) Such scenarios of seizure in Pakistan would require a major security breakdown within the army leading to a takeover of weapons by a nihilistic terrorist group with little warning, while army loyalists along with India and other interested parties (like the United States) stand by and do not intervene. This is not a particularly realistic scenario, but it’s also not a reason to conclude that Pakistan’s nuclear arsenal is of no concern. It is, not only because of an internal threat, but especially because it raises the possibility of nuclear war with India. For this and other reasons, intelligence agencies in multiple countries spend considerable resources tracking the Pakistani nuclear situation to reduce the likelihood of surprises. But any consideration of Pakistan’s nuclear arsenal does bring home (once again) the folly of US policy in the 1980s, when stopping the Pakistani nuclear program was put on a back burner in order to prosecute the Cold War against the Soviets in Afghanistan (which ultimately led to the establishment of Al Qaeda). Some of the loudest voices expressing concern about nuclear terrorism belong to former senior government officials who supported US assistance to the mujahideen and the accompanying diminution of US opposition to Pakistan’s nuclear activities. Acquiring nukes as a gift. Following the shock of 9/11, government officials and the media imagined many scenarios in which terrorists obtain nuclear weapons; one of those scenarios involves a weapon state using a terrorist group for delivery of a nuclear weapon. There are at least two reasons why this scenario is unlikely: First, once a weapon state loses control of a weapon, it cannot be sure the weapon will be used by the terrorist group as intended. Second, the state cannot be sure that the transfer of the weapon has been undetected either before or after the fact of its detonation (see Lieber and Press, 2013). The use of the weapon by a terrorist group will ultimately result in the transferring nation becoming a nuclear target just as if it had itself detonated the device. This is a powerful deterrent to such a transfer, making the transfer a low-probability event. Although these first two ways in which terrorists might obtain a nuclear weapon have very small probabilities of occurring (there is no available data suggesting that terrorist groups have produced plans for stealing a weapon, nor has there been any public information suggesting that any nuclear weapon state has seriously considered providing a nuclear weapon to a sub-national group), the probabilities cannot be said to be zero as long as nuclear weapons exist. Manufacturing a nuclear weapon. To accomplish this, a terrorist group would have to obtain an appropriate amount of one of the two most popular materials for nuclear weapons, highly enriched uranium (HEU) or plutonium separated from fuel used in a production reactor or a power reactor. Weapon-grade plutonium is found in weapon manufacturing facilities in nuclear weapon states and is very highly protected until it is inserted in a weapon. Reactor-grade plutonium, although still capable of being weaponized, is less protected, and in that sense is a more attractive target for a terrorist, especially since it has been produced and stored in prodigious quantities in a number of nuclear weapon states and non-weapon states, particularly Japan. But terrorist use of plutonium for a nuclear explosive device would require the construction of an implosion weapon, requiring the fashioning of an appropriate explosive lens of TNT, a notoriously difficult technical problem. And if a high nuclear yield (much greater than 1 kiloton) is desired, the use of reactor-grade plutonium would require a still more sophisticated design. Moreover, if the plutonium is only available through chemical separation from some (presumably stolen) spent fuel rods, additional technical complications present themselves. There is at least one study showing that a small team of people with the appropriate technical skills and equipment could, in principle, build a plutonium-based nuclear explosive device (Mark et al., 1986). But even if one discounts the high probability that the plan would be discovered at some stage (missing plutonium or spent fuel rods would put the authorities and intelligence operations under high alert), translating this into a real-world situation suggests an extremely low probability of technical success. More likely, according to one well-known weapon designer,4 would be the death of the person or persons in the attempt to build the device. There is the possibility of an insider threat; in one example, a team of people working at a reactor or reprocessing site could conspire to steal some material and try to hide the diversion as MUF (materials unaccounted for) within the nuclear safeguards system. But this scenario would require intimate knowledge of the materials accounting system on which safeguards in that state are based and adds another layer of complexity to an operation with low probability of success. The situation is different in the case of using highly enriched uranium, which presents fewer technical challenges. Here an implosion design is not necessary, and a “gun type” design is the more likely approach. Fear of this scenario has sometimes been promoted in the literature via the quotation of a famous statement by nuclear physicist Luis Alvarez that dropping a subcritical amount of HEU onto another subcritical amount from a distance of five feet could result in a nuclear yield. The probability of such a yield (and its size) would depend on the geometry of the HEU components and the amount of material. More likely than a substantial nuclear explosion from such a scenario would be a criticality accident that would release an intense burst of radiation, killing persons in the immediate vicinity, or (even less likely) a low-yield nuclear “fizzle” that could be quite damaging locally (like a large TNT explosion) but also carry a psychological effect because of its nuclear dimension. In any case, since the critical mass of a bare metal perfect sphere of pure U-235 is approximately 56 kilograms, stealing that much highly enriched material (and getting away without detection, an armed fight, or a criticality accident) is a major problem for any thief and one significantly greater than the stealing of small amounts of HEU and lower-enriched material that has been reported from time to time over the past two decades, mostly from former Soviet sites that have since had their security greatly strengthened. Moreover, fashioning the material into a form more useful or convenient for explosive purposes could likely mean a need for still more material than suggested above, plus a means for machining it, as would be the case for HEU fuel assemblies from a research reactor. In a recent paper, physics professor B. C. Reed discusses the feasibility of terrorists building a low-yield, gun-type fission weapon, but admittedly avoids the issue of whether the terrorists would likely have the technical ability to carry feasibility to realization and whether the terrorists are likely to be successful in stealing the needed material and hiding their project as it proceeds (Reed, 2014). But this is the crux of the nuclear terrorism issue. There is no argument about feasibility, which has been accepted for decades, even for plutonium-based weapons, ever since Ted Taylor first raised it in the early 1970s5 and a Senate subcommittee held hearings in the late 1970s on a weapon design created by a Harvard dropout from information he obtained from the public section of the Los Alamos National Laboratory library (Fialka, 1978). Likewise, no one can deny the terrible consequences of a nuclear explosion. The question is the level of risk, and what steps are acceptable in a democracy for reducing it. Although the attention in the literature given to nuclear terrorism scenarios involving HEU would suggest major attempts to obtain such material by terrorist groups, there is only one known case of a major theft of HEU. It involves a US government contractor processing HEU for the US Navy in Apollo, Pennsylvania in the 1970s at a time when security and materials accounting were extremely lax. The theft was almost surely carried out by agents of the Israeli government with the probable involvement of a person or persons working for the contractor, not a sub-national terrorist group intent on making its own weapons (Gilinsky and Mattson, 2010). The circumstances under which this theft occurred were unique, and there was significant information about the contractor’s relationship to Israel that should have rung alarm bells and would do so today. Although it involved a government and not a sub-national group, the theft underscores the importance of security and accounting of nuclear materials, especially because the technical requirements for making an HEU weapon are less daunting than for a plutonium weapon, and the probability of success by a terrorist group, though low, is certainly greater than zero. Over the past two decades, there has been a significant effort to increase protection of such materials, particularly in recent years through the efforts of nongovernmental organizations like the International Panel on Fissile Materials6 and advocates like Matthew Bunn working within the Obama administration (Bunn and Newman, 2008), though the administration has apparently not seen the need to make the materials as secure as the weapons themselves. Are terrorists even interested in making their own nuclear weapons? A recent paper (Friedman and Lewis, 2014) postulates a scenario by which terrorists might seize nuclear materials in Pakistan for fashioning a weapon. While jihadist sympathizers are known to have worked within the Pakistani nuclear establishment, there is little to no evidence that terrorist groups in or outside the region are seriously trying to obtain a nuclear capability. And Pakistan has been operating a uranium enrichment plant for its weapons program for nearly 30 years with no credible reports of diversion of HEU from the plant. There is one stark example of a terrorist organization that actually started a nuclear effort: the Aum Shinrikyo group. At its peak, this religious cult had a membership estimated in the tens of thousands spread over a variety of countries, including Japan; its members had scientific expertise in many areas; and the group was well funded. Aum Shinrikyo obtained access to natural uranium supplies, but the nuclear weapon effort stalled and was abandoned. The group was also interested in chemical weapons and did produce sarin nerve gas with which they attacked the Tokyo subway system, killing 13 persons. Aum Shinrikyo is now a small organization under continuing close surveillance. What about highly organized groups, designated appropriately as terrorist, that have acquired enough territory to enable them to operate in a quasi-governmental fashion, like the Islamic State (IS)? Such organizations are certainly dangerous, but how would nuclear terrorism fit in with a program for building and sustaining a new caliphate that would restore past glories of Islamic society, especially since, like any organized government, the Islamic State would itself be vulnerable to nuclear attack? Building a new Islamic state out of radioactive ashes is an unlikely ambition for such groups. However, now that it has become notorious, apocalyptic pronouncements in Western media may begin at any time, warning of the possible acquisition and use of nuclear weapons by IS. Even if a terror group were to achieve technical nuclear proficiency, the time, money, and infrastructure needed to build nuclear weapons creates significant risks of discovery that would put the group at risk of attack. Given the ease of obtaining conventional explosives and the ability to deploy them, a terrorist group is unlikely to exchange a big part of its operational program to engage in a risky nuclear development effort with such doubtful prospects. And, of course, 9/11 has heightened sensitivity to the need for protection, lowering further the probability of a successful effort.

### AT: Midterms

#### The midterms are too far away to make accurate predictions – their polls overestimate the Trump effect. Schneider 11/8

Schneider, Christian. “Democratic Victories Are Important, but Don't Get Cocky about 2018.”USA Today, Gannett Satellite Information Network, 8 Nov. 2017, www.usatoday.com/story/opinion/2017/11/08/warning-midterm-elections-harder-predict-than-they-appear-christian-schneider-column/844666001/. Christian Schneider, opinion columnist. //nhs-VA

Of course, I'm kidding — as election results rolled in on Tuesday night, the airwaves were loaded with dire predictions about how the "Trump Effect" is now taking hold, boding ill for Republicans in the 2018 midterm elections. Naturally, there's a great danger in taking a handful of races in a couple states and declaring them to be indicative of a national trend. In Virginia, Republican Ed Gillespie lost to Democratic Lt. Gov. Ralph Northam by a whopping nine percentage points, in a race that appeared to be doused in Trumpist themes. But during election season, Virginia has been its own political ecosystem; in the wake of an August white supremacist march in Charlottesville that left an anti-racism protester dead, the campaign devolved into a rancid referendum on racial grievance. The fact that the race essentially became a national contest compressed into one state didn't exactly help soothe the electorate. And yes, voters in the highly populous northern part of the state were able to tie Gillespie to Trump, in large part because of the racially divisive campaign Gillespie opted to run. (A race that took out incumbent Republicans in down-ballot races all over the state.) But as virtually nobody picked Donald Trump to win the presidency in November of 2015, deciding how Trump will affect the midterm elections in 2018 is a fool's errand. To be sure, Trump is struggling — according to a recent Washington Post-ABC News poll, the president's approval rating has dropped to 37%, just barely above the approval rating for "Athlete's Foot." And, as we know, the level of public dyspepsia is always a leading indicator of how midterm elections will go, which explains big Republican wins in 2010 and 2014 during the Obama presidency and the Democratic landslide in 2006 under George W. Bush as the U.S. was mired in the War in Iraq. But, of course, there's still a year to go, and it's not as if Trump hasn't defied the punditocracy before. In fact, his current slump may a result of voters who previously supported him feeling betrayed over his inability to actually pass any meaningful legislation; if, for instance, Trump was able to sign significant tax reform into law, he could once again claim to be a president who gets things done. If Republicans invested massive amounts of money in congressional races and took a message of tax cuts to the voters, they should be able to at least stave off a full-fledged hemorrhage. (This obviously, all depends on the result of Robert Mueller’s investigation into Trump associates’ dealings with Russia during the election.) Further, it has yet to be seen how the Trump Effect will play in individual states. In Virginia, Gillespie — a former lobbyist — had never held state-wide elected office before. Other statewide races will feature more seasoned politicians that will avoid being sucked into such appalling racial appeals. America is full of strong Republican elected officials who have managed to hold together the competing wings of the GOP without descending into full Trumpism; if they manage to keep their politics local, they have a chance to succeed.

#### No preemptive strike and impeachment impossible – not enough evidence and Dems will retake the house anyway but can’t win the senate.

Frank, T.A. “Will 2018 Be the End of the Trump Presidency?” The Hive, Vanity Fair, 26 Dec. 2017, www.vanityfair.com/news/2017/12/will-2018-be-the-end-of-the-trump-presidency.T.A. Frank is a Vanity Fair contributor who covers politics and policy. //nhs-VA

Will Donald Trump be impeached in 2018? Mighty, mighty unlikely. If you don’t stand to multiply your investment by 20, I’d skip the bet. Impeachment is a political act, and the Republican majority will remain in place through 2018. If the investigations into collusion with Russia were yielding anything seriously damning (and if journalistic blunders on the subject weren’t outpacing scoops), it’d be different. As things stand, however, special counsel Robert Mueller seems to have found little in the way of collusion—at least that we know of—and instead shifted his focus to the obstruction of justice. Obstruction of justice is a significant crime in itself, of course, but people are more willing to punish it if it’s part of the concealment of a bigger crime rather than the sum of the crime. As people are starting to notice, independent counsel investigations have a tendency to start by focusing on one thing and then indicting people for something else, after the process itself has made them trip over their own feet. Republicans are not going to join a pile-on over what role Donald Trump played in the false statements that former national security adviser Michael Flynn made to the F.B.I. Even Democrats are likely to flinch from impeachment talk, recalling what happened during the Clinton years. In sum, make sure you get a big return on any Trump-impeachment bets. Will Donald Trump be removed by the 25th Amendment? Again—very, very unlikely. To remind readers, the 25th Amendment to the U.S. Constitution lays out an elaborate palace-coup process with which to depose a sitting president. Such an ouster is arguably even harder to pull off than impeachment, except in cases of obvious emergency. Unless Trump interrupts a state visit to tear off all his clothes and run down Pennsylvania Avenue in winter, the palace coup won’t happen. To be sure, if an intelligent friend of mine suddenly started sounding like Donald Trump in his narrowness of vocabulary and blunders in language, I’d rush that person to the hospital. It’s also clear that Trump has declined in mental powers over the past decade. But dementia is unlikely to be the explanation. Trump five years ago was already highly Trumpy, and his decline would have been sharper had it been due to more than age. Will Trump resign in 2018? Still very unlikely. To be fair, the odds of resignation are slightly better than those of impeachment or of a 25th Amendment palace coup. It requires only one powerful man, Donald Trump, to sign on. The precedent of former governor Sarah Palin comes to mind, since she resigned in 2009, abruptly and mysteriously, only two and a half years into her only term, thus ending any hopes of being treated as a credible presidential candidate in the future. The odds of this happening with Trump, however, are mighty low. Donald Trump, while thin-skinned and incapable of rising above provocation, is indefatigable as a fighter, reminiscent of Clinton, Nixon, and other presidents in his resilience. Resignation would wound his pride too severely, because there’s no face-saving way to do it. Mind you, Trump could well step down after his first term. By that time, he’ll have succeeded or failed in what he was going to accomplish as president. He’s also one of few presidents who have taken a cut in luxury when they got to the White House. Air Force One and Marine One are great, and he’ll miss those, but Trump has some pretty nice digs otherwise. But we digress. Get generous odds if you put your money on resignation. **Will Trump for other reasons be unable to finish his 2018 in office?** It’s bad karma to bet that way, but, certainly, in theory, violence or ill health could end Trump’s presidency this year. The first would be calamitous. Fortunately, the Secret Service has learned rather a lot about protecting presidents. The latter would be less damaging—and, given Trump’s terrible habits of diet and exercise, less surprising—but paranoia runs deep these days, and foul play would be suspected. So, while these things could happen, let’s be happy that the odds of them happening are low. Will the Democrats sweep the midterms? Yes and no. They’ll do great in the House. **Sean Trende** of Real Clear Politics predicts a 40-seat gain, which would give Democrats a handy majority. Midterm elections have favored the incumbent president’s party only twice in the past 60 years—the first in 1998, when Republicans pushed to impeach **Bill Clinton,** the second in 2002, when Americans were rallying after 9/11. Trump has poor approval ratings, and there are many vulnerable House Republicans. Flipping the Senate, though, is a lot harder. Democrats are defending 25 seats, while Republicans are defending only eight. What’s more, all of the Republicans, apart from Nevada’s **Dean Heller,** are in solidly red states. Picking up more than one seat would be remarkable. Overall, gridlock will probably characterize the final two years of Trump’s term. Getting anything majorly Trumpy accomplished will have to happen in the next 10 months, if it happens at all. **Will Trump destroy much of life on earth?** Trump could go to war with Iran. As the fiercely anti-war **Pat Buchanan** has warned, U.N. ambassador **Nikki Haley** seems to be helping Trump to lay the groundwork for it. That would destroy Trump’s presidency, kill countless Iranians, and hasten the collapse of the United States as a great power. A bad outcome, to be sure. But it probably wouldn’t end in nuclear fire or mass civilian death in the United States. As for North Korea, we may, ironically, be safer now that its nuclear program is nearly complete. It reduces Trump’s temptation to attack the country pre-emptively. (The idea of a “bloody nose” battle plan—an attack on North Korea’s test facilities that would leave the country basically unharmed but ready to talk—is so idiotic that it might be true, but the window for that is closing.) Other places? Trump has tried to ratchet down tensions with Moscow, so war with Russia seems less likely than under many other possible presidents. Let’s hope so, at least. To be sure, the world surprises us daily, and nuclear missiles can start flying for all sorts of reasons. But that has been the case for decades.

#### Syria strike thumps – proven to garner support for Trump and distract from GOP failures. Lee 4/13

Lee, Carrie. "Analysis | Why Has Trump Been Threatening To Attack Syria? (Hint: It’S Probably Not About Syria.)." Washington Post. N. p., 13 Apr. 2018. Web. 14 Apr. 2018. //nhs-VA

Trump is playing to his base The real reason for the attack threats is probably this: Midterms are approaching, the Russia investigation is escalating and former FBI director James B. Comey’s book is being released. Research shows that diversionary wars — wars started to distract the public from domestic unrest — are [hard to start](https://pdfs.semanticscholar.org/0bc8/a4c06b87b488f3f7204d447c57d0ff1d359e.pdf) in [democracies](http://pages.ucsd.edu/~bslantchev/courses/pdf/Levy%20-%20Diversionary%20Theory%20of%20War%2C%20A%20Critique.pdf) and rarely have the [intended effect](https://www.cambridge.org/core/journals/international-organization/article/benefit-of-the-doubt-testing-an-informational-theory-of-the-rally-effect/CEF2140068A606F5E8CB2DBBC26A6F50). Military operations in an already existing conflict are much easier to manipulate — and are not as risky as starting a war. [My research](https://carrieannleedotcom.files.wordpress.com/2018/03/lee_thepoliticsofmilitaryoperations.pdf) finds that, during periods of political fragility, U.S. presidents systematically manipulate the timing and tempo of military operations. That’s true most often in the lead-up to elections, when public opinion quite literally determines the fate of a president. However, presidents also manipulate military operations when they need support from their domestic political base — for example, during negotiations over major pieces of legislation, bids for legacy, midterms or while threatened with impeachment. Trump bookended his tweets about Syria with comments both about special counsel Robert S. Mueller III’s [investigation](https://twitter.com/realDonaldTrump/status/984020136255541248) and relations with [Russia](https://twitter.com/realDonaldTrump/status/984032798821568513). That suggests that the president sees these as linked. And with Republicans expecting to take heavy losses in the midterms, Trump may see an airstrike on Syria as a way to motivate Republican voters and boost his approval ratings. If he does order a missile strike, Trump would be in good company, historically speaking. President Franklin D. Roosevelt scheduled the World War II [invasion of North Africa](https://warontherocks.com/2017/11/16075/) before the 1942 midterm elections. President Richard B. Nixon prematurely announced a [peace deal](https://www.amazon.com/Vietnam-History-Stanley-Karnow/dp/0140265473) on Vietnam on the eve of the 1972 general election. And President Bill Clinton [launched airstrikes](https://www.nytimes.com/1998/12/17/world/attack-iraq-overview-impeachment-vote-house-delayed-clinton-launches-iraq-air.html) against Sudan and Afghanistan the day that Monica Lewinsky appeared before a grand jury. Trump would also be learning from experience. His April 2017 airstrikes in Syria met with [approval ratings of more than 66 percent](https://www.politico.com/story/2017/04/poll-syria-airstrikes-237133) from the general public and 82 percent from Republicans. The strikes stopped a month-long [downhill slide](https://projects.fivethirtyeight.com/trump-approval-ratings/) in his approval ratings and drew attention away from congressional Republicans’ inability to repeal the Affordable Care Act, as they had promised.

#### Plan not key – healthcare is top. Sullivan 4/6

Sullivan, Peter. *Thehill.com*. N. p., April 6 2018. Web. 14 Apr. 2018.

Voters rank health care as the top issue heading into this year’s midterm elections, [according to](https://www.huffingtonpost.com/entry/voters-say-health-care-is-their-top-issue-in-the-2018-election-thats-a-good-sign-for-democrats_us_5ac642e2e4b09d0a119103c4) a HuffPost/YouGov poll released Friday. More registered voters picked health care as the top issue than any other topic when asked to pick their top two issues, the poll found. Thirty percent of voters picked health care, compared to 25 percent each who said guns and immigration as well as 24 percent who said the economy. Just 12 percent said [Donald Trump](http://thehill.com/people/donald-trump)’s record as president. The poll of 1,000 U.S. adults, including 872 registered voters, was conducted March 23-26 using an opt-in online panel.

#### \*Turn - Immigration reform trades off some blue votes with frustration from his base. Easley 9/18

Easley, Jordan Fabian and Jonathan. “Trump Bets Base Will Stick with Him on Immigration.”TheHill, TheHill, 18 Sept. 2017, thehill.com/homenews/administration/350947-trump-bets-base-will-stick-with-him-on-immigration.

Trump’s voters have stuck with him through controversies that could have ended the careers of other politicians, including his response to the violence at a white supremacist rally in Charlottesville, Va., and the “Access Hollywood” tape, in which he is heard bragging about groping women without their consent. But if Trump does go back on key campaign promises, it could present a different kind of challenge for him. As a candidate, Trump energized his supporters with his pledges to scrap DACA, deport the roughly 11 million immigrants living illegally in the U.S. and build a wall along the southern border to stop them from entering. Immigration, in short, was perhaps the biggest animating force of his candidacy. King tweeted that if reports of the president’s dealings are correct, “Trump base is blown up, destroyed, irreparable, and disillusioned beyond repair. No promise is credible.” But the president expressed confidence Republicans would stick with him even if he helps DACA recipients, telling reporters Thursday many are “very, very happy with what we’re doing.” The former campaign adviser endorsed Trump’s view, saying his support is “not tied to a specific policy, it’s tied to disrupting, it’s tied to shaking up the status quo.” “That’s what the base likes, bringing disruption to a city that has been mired in gridlock,” the aide said. On Friday, Trump tacitly acknowledged his newfound love for bipartisanship carries political risk. The president rallied supporters with a string of tough-talking early morning tweets on the terror attack at London subway station and an ESPN host who called him a white supremacist. He also reassured his backers that “CHAIN MIGRATION cannot be allowed to be part of any legislation on Immigration!” The term refers to the practice of immigrants with legal status sponsoring certain family members so that they can come to the U.S. Yet some of Trump’s allies continue to question why he seems to be prioritizing a top issue for Democrats, the status of immigrants in the U.S. illegally, over his campaign promise to build a border wall. By not demanding wall funding be attached to a DACA bill, Trump supporters say he is giving away his most valuable bargaining chip in exchange for vague promises of stronger border security from Schumer and Pelosi. Trump once bragged that his supporters are so loyal, he could shoot someone in the street and he would not lose support. Dan Stein, president of the Federation for American Immigration Reform, said Trump’s proposed DACA deal would put that notion to the test. “Donald Trump would have been better off going onto Fifth Avenue and shooting someone,” said Stein, whose group favors lower levels of both legal and illegal immigration. “He said his base wouldn’t care if he did that. The base cares about this.” Stein speculated the president might be “convinced that dealing on DACA will win him new supporters” who could help him win in 2020. The former campaign aide said Trump’s supporters wouldn’t have a better option in 2020, regardless of what he does on immigration. “It’s not 2016 Trump against 2020 Trump,” the aide said. “It’s Trump running against [Sens.] Elizabeth Warren or Bernie Sanders, and it’s not like these voters would run to vote for the other side.” In the short term, conservatives' anger at Senate Majority Leader Mitch McConnell (R-Ky.) and Speaker Paul Ryan (R-Wis.) has provided a buffer for Trump against the backlash from his base. Frustration with the GOP leaders gave Trump room to break with them and strike an agreement with Democrats on a deal to extend the nation’s borrowing limit and fund the government. That dynamic could persist until Republicans begin notching legislative victories of their own. “He has such a diverse coalition and his base elected him knowing that he isn’t overly ideological,” said a GOP consultant who requested anonymity. “Poll after poll shows that Republicans will blame Ryan and McConnell every single time, so he has leeway here.” But the consultant warned that cover might not last forever, because “it’s never a good sign to have key influencers turn their backs.” Key figures on the right warn that immigration is a different animal from other policy areas.

#### Turn – Trump launches a nuke when impeachment proceedings gain traction

Zenko 17 - senior fellow with the Center for Preventive Action at the Council on Foreign Relations and is the author of Red Team: How to Succeed by Thinking Like the Enemy (Micah, “Trump’s Russia Scandal Is Already Swallowing His Foreign Policy,” *Foreign Policy*, Lexis) SJDI

While telegraphing its desire to instigate a crisis with North Korea, the Trump administration has publicly articulated no plan or theory of success for how the “denuclearization” of the Korean Peninsula actually happens. And in conversations with White House, Pentagon, and State Department officials and staffers about North Korea, I have heard nothing that indicates such a plan exists. The default course of action — tried unsuccessfully by the last two presidents — is to further lean on Beijing to further lean on Pyongyang. This will not work. Two weeks ago, I was fortunate to attend a workshop in Beijing, where a well-connected Chinese foreign-policy scholar stated bluntly: “You have to understand, China is more afraid of the United States than it is of North Korea.” He further indicated that China’s leaders prefer the status quo of a nuclear-armed North Korea over working with the United States to further destabilize, or even topple, the Kim regime. When China inevitably refuses to coerce North Korea as strongly, or on the timeline, that the Trump administration demands, then what? When China inevitably refuses to coerce North Korea as strongly, or on the timeline, that the Trump administration demands, then what? If the White House believes that North Korea has even a 10 or 20 percent probability of being able to successfully launch an intercontinental ballistic missile mated with a nuclear warhead onto the United States, I believe that Trump would authorize a preemptive attack against the missile-launch site (assuming it is an easily observable, liquid-fueled missile) and perhaps against known nuclear weapons-related facilities. Military officials, including Adm. Harry Harris, commander of the U.S. forces in the Pacific, have acknowledged that Kim would not simply absorb such an attack but would immediately retaliate against South Korea. This would trigger America’s mutual defense treaty commitments to defend South Korea and spark a series of classified, pre-planned U.S.-South Korean military operations. When the Pentagon reviewed some version of this scenario in 1994 (before North Korea had a nuclear arsenal of at least a dozen bombs), it was estimated that such a retaliation could “cause hundreds of thousands, perhaps millions, of casualties.” But a President Trump facing ever-expanding scandals, continually low polling numbers, and even potential impeachment proceedings may decide that a preemptive attack on North Korea is worth the costs and consequences. The academic findings are mixed on whether heads of government facing domestic vulnerability engage in such diversionary wars — uses of force to divert public attention and rally support for their leadership. Some analysts and scholars have examined whether George H.W. Bush’s 1989 invasion of Panama or Bill Clinton’s attacks on al Qaeda targets and Iraq in 1998 were examples of such diversionary tactics. What seems clear, however, is that presidents are more likely to engage in such diversions when they are inherently distrustful and perceive the world in simplistic black-and-white terms — a perfect characterization of Trump.

### AT: Infrastructure Politics

#### Infrastructure won’t pass – spending debates and infighting. Rusling 12/22

Rusling, Matthew. “News Analysis: After Trump's Tax Triumph, Tough Time Ahead to Pass Infrastructure Bill.” News Analysis: After Trump's Tax Triumph, Tough Time Ahead to Pass Infrastructure Bill - Xinhua | English.news.cn, 22 Dec. 2017, www.xinhuanet.com/english/2017-12/22/c\_136845078.htm. Matt Rusling is an international journalist with nearly a decade of on-the-ground experience in Asia, Africa and Europe. //nhs-VA

The bill amounts to the biggest tax revamp in three decades, and stands as the businessman-turned-politician's biggest legislative achievement. After nearly a year in office, the tax bill represents a much-needed win after Trump failed in his efforts to pass a major healthcare bill. But experts said this triumph may be short-lived, as it remains unknown whether the president will be able to make good on myriad other campaign promises. While Trump was able to unify the GOP on the tax bill, he will likely have to tread muddy waters in his next legislative battle, which is likely to be infrastructure. "The next legislation will be difficult. No one can figure out how to pay for infrastructure, there is little support for entitlement reform, and there will be a huge budget fight in January," Gregory R. Valliere, chief strategist at Horizon Investments, told Xinhua. "To complicate matters for Trump, many Republicans may abandon him once they get what they want -- tax cuts," Valliere said. Indeed, Trump has in recent months had an ongoing and very public spat with key members of his own party, including 2008 presidential candidate and current Senator John McCain. The war of words grew personal on a number of occasions, with both men making stinging jabs at each other through social media. That calls into question how and whether Trump can rally the GOP-led Congress on issues that may be much more controversial than tax reform. Dan Mahaffee, senior vice president and director of policy at the Center for the Study of the Presidency and Congress, told Xinhua that there will be some challenge in coordinating the next course of action for the GOP, as there is the need to keep the government open and fund or authorize key programs. Longer-term attention is divided between action on GOP House Speaker Paul Ryan's next priority, which is welfare reform, and what President Trump has been focused on, infrastructure spending. Trump was elected by a mostly white, working class population fed up by a number of problems they see plaguing the United States -- from illegal immigrants they believe are taking their jobs, to high unemployment in rural areas and a sense of being forgotten by Washington. Indeed, while the official jobless rate is low, the rate masks a number of economic realities. For example, a trained engineer without a job is considered employed for that week if he spends a Friday afternoon cutting his neighbor's grass for 20 U.S. dollars -- about the price of a moderate dinner out for one person. Moreover, the unemployment rate does not take into consideration those who have given up seeking full-time work out of sheer frustration at their dim prospects. Nor does it consider that many of the jobs created in recent years are low-paying ones. Major cities such as Washington DC, however, are exceptions, as wages there are high and job opportunities are plentiful. Experts said a massive infrastructure building plan could boost the economy and solve a number of the nation's economic problems. Alan Viard, a resident scholar at the American Enterprise Institute, noted that some reports indicate that the administration' s next major proposal will be an infrastructure program. "President Trump is not likely to have it as easy on that proposal because it will take 60 votes to pass it in the Senate, rather than the 50 needed to pass the tax bill," he told Xinhua. There is also significant disagreement within and between the two parties about what kind of infrastructure should be built and how it should be financed, he added.

#### Case turns the DA – immigrants are k2 preventing a labor shortage; math will kill the bill even if congress doesn’t. Sen 17

Sen, Conor. “Math Will Kill Trump's Infrastructure Plan.” Bloomberg.com, Bloomberg, 1 Mar. 2017, www.bloomberg.com/view/articles/2017-03-01/math-will-kill-trump-s-infrastructure-plan. Conor Sen is a Bloomberg View columnist. He is a portfolio manager for New River Investments in Atlanta and has been a contributor to the Atlantic and Business Insider. //nhs-VA

In his address to Congress on Tuesday, President Donald Trump once again brought up his support for a large infrastructure package. And there’s good reason for this: It’s not nearly as polarizing as most other parts of his agenda and would stimulate economic growth in a way that would benefit blue-collar workers who were key to his election. But like much of his agenda, it’s short on details, and the labor-market math doesn’t add up. Here’s the napkin version. The trillion-dollar package being discussed is understood to be $100 billion of spending per year for 10 years. Leave aside the fact that infrastructure spending is notoriously messy and slow, as environmental delays and other project-specific concerns make it hard to spend the money as fast as a policymaker or economist would like. The labor question alone shows that this vision is impossible. There are currently 6.8 million construction employees in the U.S. Annualized construction spending in the U.S. at the end of 2016 was $1.18 trillion. Dividing the two, we see that one construction worker supports around $175,000 in construction spending. (This doesn’t mean that construction workers make $175,000 per year -- that figure accounts for other labor-supporting projects and building materials.) One more simple calculation shows the daunting labor needs. If one construction worker can support $175,000 worth of construction projects, then $100 billion in spending each year would require an additional 570,000 construction workers, which doesn’t take into account truck drivers, project managers, environmental specialists, and all other support staff needed to complete projects. Perhaps infrastructure spending, which comprises 25 percent of all construction spending, is a little less labor-intensive than other types of construction spending. Maybe the shrewd administrative talent of this White House could generate some labor efficiencies. That still probably means 400,000 or 500,000 construction workers needed, not 50,000. How realistic is construction employment growth of 570,000 workers? It hasn’t happened since 1946. Even the peak of the housing bubble generated only one brief year-over-year increase of 500,000 construction workers. A period of strong growth for construction employment is between 200,000 to 300,000 workers per year, like we saw in 2013 to 2015. As we get later in this economic cycle, construction employment growth is starting to slow -- growth over the past 12 months was 170,000 jobs. Also, infrastructure spending is only 25 percent of total construction spending. Residential construction continues to grow as housing recovers from its bust and millennials age into their family-forming years. Residential construction represents 40 percent of total construction spending and has added between 100,000 to 125,000 construction jobs over the past few years. So outside of residential construction, we’re currently adding around 50,000 construction jobs per year. And residential construction growth, and hence its labor needs, should continue for several more years, making it more difficult to find labor slack that could be redeployed into infrastructure projects. The construction labor market at current wages is tight and has been tightening for the past several years. Last summer, when construction unemployment was at its seasonal low, there were only around 400,000 unemployed construction workers. This is around the lowest level we’ve seen for construction unemployment since the late 1990s. So if we’re going to get an unprecedented amount of construction employment growth, they’re going to have to come from other industries, outside the labor force, or abroad. Immigrant labor, particularly undocumented workers, represent a significant proportion of the construction labor force. Bloomberg reported last week that up to 1.1 million construction workers in the U.S. are undocumented, so stepping up deportations would deplete an already-too-small construction labor pool. Without any radical changes to immigration policy, we might have capacity for an additional 50,000 construction workers per year for infrastructure projects -- far short of the 570,000 needed under Trump’s infrastructure proposal. Significant growth beyond that would likely require much higher wages and poaching from other industries, creating labor shortages in those industries.

#### Turn – Opposition to GOP plans is critical to Dems mobilizing the grassroots—necessary to drive turnout and win the midterms

Kilgore 17 Ed journalist, “Democrats’ Secret Weapon: Republicans Own Everything Now,” NEW YORK MAGAZINE, 1—29—17, http://nymag.com/daily/intelligencer/2017/01/democrats-secret-weapon-republicans-own-everything-now.html, accessed 6-14-17.

There is, however, one structural handicap Democrats have recently had in midterms. Their coalition now depends heavily on precisely those voters who have been, since time immemorial, least likely to participate in nonpresidential elections: young and minority voters. Conversely, the Republican base skews older and whiter, and older and whiter voters are disproportionately more likely to show up for midterms. As President Obama recently said: “What I was able to do during my campaigns, I wasn’t able to do during midterms. I didn’t crack the code on that.” For Democrats, cracking the midterm code more than likely means generating the kind of serious grassroots mojo that will help motivate and then mobilize turnout. And that’s where Inauguration Day and the day just after it offered another bit of potential good news for Democrats: The massive marches and protests we are seeing make the progressive uprising against George W. Bush look like a sandbox temper tantrum. That is only more true after this past weekend and the massive backlash against Trump’s temporary travel ban against seven Muslim countries. There is nothing about Donald Trump (or Paul Ryan or Mitch McConnell) that suggests these protests will go away any time soon. And already, some Democratic thinkers can envision a passionate, if diffuse, grassroots movement emulating the tea party’s success eight years ago in channeling public fear and frustration into pressure on officeholders in both parties and into preparation for the midterms. Indeed, this could be just what the donkey ordered: a relentless grassroots campaign of resistance to Trump and his allies, combined with a strategically and tactically flexible cadre of Democrats in Congress prepared to wage guerrilla warfare against GOP plans while staying alert to opportunities to exploit GOP divisions. Such divisions (not to mention confusion and disarray) are popping up everywhere, on issues ranging from defense spending to taxes to Obamacare. And the leadership of a lone-wolf eccentric like Donald Trump means they will probably continue to erupt. But even if total partisan war consumes Washington, a campaign of progressive resistance could not but help Democrats turn out their vote in 2018.

#### Trump gets impeached if GOP gets wiped out – Republican strategist concurs. Shelbourne 1/4

Shelbourne, Mallory. “GOP Strategist: Republicans Will Turn on Trump, Impeach Him If Party Is Blown out in Midterms.” TheHill, 4 Jan. 2018, thehill.com/homenews/campaign/367378-gop-strategist-republicans-will-turn-on-trump-impeach-him-if-party-is-blown. //nhs-VA

A Republican strategist who formerly served as a top aide on Sen. Ted Cruz’s (R-Texas) presidential campaign is arguing that Republicans will turn on President Trump and impeach him should they lose heavily in the 2018 midterms. “When does the Republican Party turn? When they get wiped out. That's what happens. If they get wiped out in [2018], the Republicans will absolutely turn on Donald Trump,” Rick Tyler told MSNBC’s “Morning Joe.” “And I think to the point where they will impeach him and they will get 67 percent of the vote in the Senate to impeach him, to do that. But it will require a wipeout.” While some Democrats have called for Trump to be impeached, a proposed House measure to do so was rejected last month, with a majority of Democrats dismissing the resolution. Democrats are heading into the 2018 midterms with the upper chamber in play after Sen. Doug Jones’s (D) victory in the Alabama special election, which cut the GOP majority to a razor-thin 51-49. Republicans, meanwhile, are facing an internal battle, as former White House chief strategist Stephen Bannon has vowed to challenge the GOP establishment and put up primary challengers against incumbent Republican senators. Democrats would need to flip 24 seats in the midterms to take the House.

#### Trump causes World War 3—impeachment is our only hope.

Wallis 10-13 Jim. Contributor of the Huffington Post and President of the Sojourners. "Trump Threatens Both Nuclear War And The First Amendment." The Huffington Post. TheHuffingtonPost.com, 13 Oct. 2017. Web. 16 Oct. 2017. DLuo

“And, you know, [President Trump] doesn’t realize that, you know, that we could be heading towards World War III with the kinds of comments that he’s making.” That remarkably candid quote comes from Senator Bob Corker’s interview with the New York Times’ Jonathan Martin on Sunday. Corker is a sitting senator, a Republican, and the chair of the Senate Foreign Relations Committee, one of the most influential committees in Washington. In the same interview, Sen. Corker said, “I know for a fact that every single day at the White House it’s a situation of trying to contain him.” In August, Corker told reporters in Tennessee that Trump “has not yet been able to demonstrate the stability, nor some of the competence that he needs to demonstrate in order to be successful.” And over the weekend, in response to a barrage of Trump insults on Twitter, Corker responded that it was a “shame the “White House has become an adult day care center.” I must confess the emotions I felt when I watched Sen. Corker tell reporters, “I think Secretary Tillerson, Secretary Mattis, and Chief of Staff Kelly are those people who help separate our country from chaos” — I was afraid for my own children, and all children in the U.S., including those whose parents voted for Donald Trump. All of our children are in great jeopardy now, because of Donald Trump’s serious intellectual incapacities, dangerous emotional immaturity, and an amorality which suggests a complete moral emptiness and a lack of any ability to make moral judgements. Now this intellectual, emotional, and moral failure as a human being has his finger on the nuclear button. And that is the greatest threat to America and to the world today. Will other senators stand up for their country and our national security, as Sen. Corker has? How many Bob Corkers are there — how many Republicans will continue to make their Faustian bargain with a president who will promote the economic interests of their wealthy donors? And will America’s religious leaders stand up and speak for the nation against the threats that a President Trump now poses? Or will they make their own Faustian bargains with the president who gives them access and influence into a state newly committed to their “religious right” political agendas — devoid of any concerns for the poor, racial justice, refugees and immigrants, the environment or, indeed, the Christian call to peace-making and conflict resolution. President Trump reportedly told national security officials in July that he wanted to increase the U.S. nuclear arsenal tenfold — and this week, has threatened NBC News for reporting the story, suggesting they should lose their “licenses” to report the news. So the well-documented story on the nuclear threat Trump poses has now turned into another presidential threat, this time to the First Amendment. Here, as with this nation’s nuclear policies, Donald Trump seems not to understand. Complaining about press coverage is a long-standing presidential habit, but no American president has ever so blatantly attacked the press and so directly challenged the First Amendment to the Constitution. After hearing that the stockpile of U.S. nuclear weapons has been steadily reduced by international treaties and mutual nuclear obligations — something most Americans, let alone national political leaders from both parties, already knew — Trump was upset, and said he wanted to increase our stockpile to 1960s levels, as well as increasing troop levels and other military equipment. The NBC story describes a meeting in which top civilian and military national security leaders of the United States set out to, in the words of one official, “…slow down a little and explain the whole world” to the president of the United States. This meeting “included a number of tense exchanges.” (Reportedly, it was after this meeting that Secretary of State Rex Tillerson referred to Trump as a “moron.”) This is a president who during the campaign suggested that more countries ought to have nuclear weapons. Yet he has made a large number of bizarre and contradictory statements on nuclear weapons since launching his campaign. Joe Scarborough reported last summer that while in a foreign policy briefing, Trump asked three times why the U.S. can’t use nuclear weapons, since we have them. He then made a similar argument in an interview with Chris Matthews on Hardball. It is time for Christian concern to step in here. The first thing we should do is thank Sen. Corker for his courage and conscience in standing up to Trump’s dangerous statements and professed intentions. Here’s how you can do that: Tell the senator — by calling, writing to, or tweeting at him — that you are a Christian who shares his “concern” for the country. The second thing you can do is contact your own senators — call the Capitol Switchboard at (202) 224-3121 and ask to be connected — and say you agree with Sen. Corker that if this presidential behavior continues, the U.S. Senate — Democrats andRepublicans — must act to “contain” the president and limit his ability to press the nuclear button. A nuclear decision-making process and procedure that was built for speed should now be changed to account for rationality and wisdom, in the face of a president who has demonstrated neither capacity. For decades, Sojourners helped to lead broad national campaigns to stop and reverse the nuclear arms race. Christians and other people of faith were the animating core of the U.S. anti-nuclear movement. Sojourners helped initiate and lead the nuclear weapons “freeze” campaign, convened services around the country and in the nation’s capital, and organized massive protests including civil disobedience in Washington and nationwide. Our “Peace Pentecost” civil disobedience action in the U.S. Capitol in 1983, focused on first-strike nuclear weapons, lead to 242 arrests, the largest civil disobedience since the Vietnam War. We joined and co-sponsored actions at the Nevada nuclear test site and at nuclear weapons facilities across the country. And we produced fact sheets, theological reflections, and study guides — from “A Matter of Faith” to “Waging Peace” — to help educate U.S. churches about nuclear weapons and bring biblical and theological substance to the debates. A few weeks ago, Sojourners friend and columnist Wes Granberg-Michaelson wrote: “What’s at stake here is the possibility of a nuclear conflagration which seems more threatening than at any other time since the Cuban Missile Crisis. Instead of quiet, earnest diplomacy exploring every option to prevent this, we’ve heard cataclysmic threats and taunts from President Trump… past U.S. presidents have recognized that peace isn’t advanced by escalating taunts and insults.” Given the imminent danger and the demonstrated intellectual, emotional, and moral incapacities of President Trump, Sojourners is committed to help bring the present danger of nuclear weapons back into the center of our national conversation. We have claimed, along with many other Christian leaders, that our response to the unique peril of nuclear weapons is a matter or faith, not just politics. It still is; and it is time to respond again. This is an obligation of those who would follow Jesus, the one who instructs us to be peacemakers whom he calls the children of God. As Father Richard McSorley of Georgetown University wrote years ago, “It’s a sin to build a nuclear weapon.” We once put that on a poster. Perhaps it’s time to put the poster back up.

### AT: Federalism

#### Thumpers to federalism writ large—Travel Ban, GI Bill, Debt Ceiling, FEMA and Harvey.

#### Specific recent thumper – judge quotas; they’ll definitely overwhelm the plan but also proves there’s no perception link because the order was issued in March.

#### **Trump’s spending priorities already increase power of prosecutors, border patrol, and ICE. Gonzalez-Rojas 4/24**

Gonzalez-Rojas 17 (Jessica, Executive Director at the National Latina Institute for Reproductive Health, April 24, 2017 9:55 am, “Trump’s First 100 Days: A Blueprint To Hurt People of Color, Rewire, https://rewire.news/article/2017/04/24/trumps-first-100-days-blueprint-hurt-people-color/) KVA

Every day, as I work alongside community leaders to secure health and justice for Latinas, I am stunned by th is White House’s ever-growing hostility toward communities of color. The Trump administration sees the country’s changing demographics—the rising number of nonwhite and foreign-born people—as the chief internal threat. In this administration’s first 100 days, the document that most reflects that prejudice is its budget blueprint. It outlines President Trump’s spending priorities and program cuts that make clear his utter contempt for communities of color, and it edges this country and its moral compass closer to the nativist vision espoused by the likes of White House advisers Steve Bannon and Stephen Miller, and Attorney General Jeff Sessions. People of color would be disproportionately affected by Trump’s proposed elimination of critical programs that help pregnant women, children, and the poor. They would be hurt by disastrous cuts to economic programs that help workers and families. Latinas face the largest wage disparities among all racial and ethnic groups, with a recent study showing that Latinas must work 22 months to make what white men earn in 12 months. And because women of color and immigrant women disproportionately work in physically demanding and low-wage jobs that offer little flexibility, they are most affected by regressive wage legislation. The racist subtext of Trump’s budget is seen in his spending priorities: a $2 billion down payment to begin construction of a wall on the U.S.-Mexico border and funding for 100 new government lawyers to handle the expedited removal of undocumented immigrants, 500 new Border Patrol agents and 1,000 new Immigration and Customs Enforcement personnel. The price tag to pay for the building of detention facilities designed to hold undocumented immigrants and fund their removal is a whopping $1.5 billion. These proposals align with such Trump strategies as publishing crimes committed by undocumented immigrants, though these reports were recently suspended after protests by civil rights advocates. The racial implications of such strategies are clear, as most crimes are not committed by immigrants. The budget is just another prong in a racist agenda that posits nonwhite people as a drain on public resources and a threat to the national racial order. None of this is a surprise; Trump’s racism has been well-documented. On the first day of his campaign, Trump said of Mexican immigrants, “They’re bringing drugs. They’re bringing crime. They’re rapists.” Upon taking office, he issued multiple executive orders regarding immigration, threatened to defund so-called “sanctuary cities,” and called for the creation of detention centers to hold Central American refugees—mostly women, children, and LGBTQ people seeking to escape violence in their homelands. Trump’s budget amounts to an obscene redistribution of money and resources from the working poor—of whom a disproportionate amount are people of color, including immigrants—to the wealthiest. In order to fund the criminalization and persecution of immigrants, Trump proposes stripping those very communities of the support they rely on to thrive. As we approach the end of Trump’s first 100 days in office on April 30, I ask that we center around the perspectives and needs of the courageous women I encounter in my work every day. They toil and struggle against sizable odds to provide for their families in low wage, demanding jobs that pay them little; they jump through hurdles to find child care, obtain routine health services, and ensure their family’s safety. They are the backbone of their families and community, and they want to contribute to a better and more just society. In this era of Trump, these women are fighting the threat of having their families torn apart through needless deportations and are working through the pain of having to explain to their children their family’s plan in case they are separated. These courageous women are speaking truth to power, even in the face of sexism, racism, and xenophobia. Reproductive justice cannot be attained without racial equality, without quality affordable health care, without humane and just immigration reform, and without LGBTQ liberation. The Trump agenda requires us to focus on the role race and immigration status play in injustice, even legalized injustice. We owe it to our communities to help lead the way in calling out this administration’s actions for what they are: part of a racist agenda that seeks to exclude communities of color while using immigrants as scapegoats to score political points with the vocal minority of nativists in our country. Trump’s proposed budget is an attack on all of us, and we will not sit idly by.

#### Fism’s resilient.

Young 3 (Ernest, Professor of Law – University of Texas, Texas Law Review, May, Lexis)

One of the privileges of being a junior faculty member is that senior colleagues often feel obligated to read one's rough drafts. On many occasions when I have written about federalism - from a stance considerably more sympathetic to the States than Judge Noonan's - my colleagues have responded with the following comment: "Relax. The States retain vast reserves of autonomy and authority over any number of important areas. It will be a long time, if ever, before the national government can expand its authority far enough to really endanger the federal balance. Don't make it sound like you think the sky is falling."

#### Link has no salience—immigration policy doesn’t spill over to federalism writ large and none of their evidence says so.

#### Sessions uses fism for stopping voting rights – directly counteracts the reforms promoted by the aff.

Ray 17 (3/29, Victor, assistant professor of sociology at the University of Tennessee, Knoxville, “Trump Coalition Threatens a Return to the Jim Crow Era”, <http://www.newsweek.com/trump-coalition-threatens-return-jim-crow-era-576295>, Newsweek)

The confirmation of Alabama Senator Jefferson Beauregard Sessions to head the Justice Department is a step toward using state power to countenance the unofficial racial violence Trump supported throughout the campaign. Sessions has been hostile to legal protections for people of color throughout his career. He considers the Voting Rights Act “intrusive.” Early in his career he prosecuted civil rights activists for “voter fraud.” Sessions’ positions were once considered so repugnant that when President Reagan nominated Sessions for a federal judgeship, the Senate refused confirmation. No less a figure than Coretta Scott King wrote a letter saying that if Sessions was confirmed to the bench, he would use the position to forward racist policies that prior generations accomplished “with clubs and cattle prods.” Attorney General Sessions is already using the law as a cudgel to beat minority voting rights, as the justice department has reversed position on an important Texas voter ID case. Sessions has also advocated for less oversight for police departments, such as those in Chicago and Baltimore, where the Justice Department found officers calling for “race war” on social media or using arrest templates with “black male” already filled in. And Sessions supports reigniting the drug war, which many scholars see as a primary cause of the mass incarceration of people of color.

#### No impact to warming.

Mendelsohn 9 Robert O., the Edwin Weyerhaeuser Davis Professor, Yale School of Forestry and Environmental Studies, Yale University, June 2009, “Climate Change and Economic Growth,” online: http://www.growthcommission.org/storage/cgdev/documents/gcwp060web.pdf

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006). These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

#### No disease impact

Ridley 12 (Matt, visiting professor at Cold Spring Harbor Laboratory, former science editor of The Economist, and award-winning science writer, “Apocalypse Not: Here’s Why You Shouldn’t Worry About End Times”, Wired, August 17 http://www.wired.com/2012/08/ff\_apocalypsenot/all/)

Repeatedly throughout the past five decades, the imminent advent of a new pandemic has been foretold. The 1976 swine flu panic was an early case. Following the death of a single recruit at Fort Dix, the Ford administration vaccinated more than 40 million Americans, but more people probably died from adverse reactions to the vaccine than died of swine flu. A few years later, a fatal virus did begin to spread at an alarming rate, initially through the homosexual community. AIDS was soon, rightly, the focus of serious alarm. But not all the dire predictions proved correct. “Research studies now project that one in five—listen to me, hard to believe—one in five heterosexuals could be dead from AIDS at the end of the next three years. That’s by 1990. One in five,” Oprah Winfrey warned in 1987. Bad as AIDS was, the broad-based epidemic in the Americas, Europe, and Asia never materialized as feared, though it did in Africa. In 2000 the US National Intelligence Council predicted that HIV/AIDS would worsen in the developing world for at least 10 years and was “likely to aggravate and, in some cases, may even provoke economic decay, social fragmentation and political destabilization in the hardest hit countries in the developing and former communist worlds.” Yet the peak of the epidemic had already passed in the late 1990s, and today AIDS is in slow retreat throughout the world. New infections were 20 percent lower in 2010 than in 1997, and the lives of more than 2.5 million people have been saved since 1995 by antiretroviral treatment. “Just a few years ago, talking about ending the AIDS epidemic in the near term seemed impossible, but science, political support, and community responses are starting to deliver clear and tangible results,” UNAIDS executive director Michel Sidibé wrote last year. The emergence of AIDS led to a theory that other viruses would spring from tropical rain forests to wreak revenge on humankind for its ecological sins. That, at least, was the implication of Laurie Garrett’s 1994 book, The Coming Plague: Newly Emerging Diseases in a World Out of Balance. The most prominent candidate was Ebola, the hemorrhagic fever that starred in Richard Preston’s The Hot Zone, published the same year. Writer Stephen King called the book “one of the most horrifying things I’ve ever read.” Right on cue, Ebola appeared again in the Congo in 1995, but it soon disappeared. Far from being a harbinger, HIV was the only new tropical virus to go pandemic in 50 years. In the 1980s British cattle began dying from mad cow disease, caused by an infectious agent in feed that was derived from the remains of other cows. When people, too, began to catch this disease, predictions of the scale of the epidemic quickly turned terrifying: Up to 136,000 would die, according to one study. A pathologist warned that the British “have to prepare for perhaps thousands, tens of thousands, hundreds of thousands, of cases of vCJD [new variant Creutzfeldt-Jakob disease, the human manifestation of mad cow] coming down the line.” Yet the total number of deaths so far in the UK has been 176, with just five occurring in 2011 and none so far in 2012. In 2003 it was SARS, a virus from civet cats, that ineffectively but inconveniently led to quarantines in Beijing and Toronto amid predictions of global Armageddon. SARS subsided within a year, after killing just 774 people. In 2005 it was bird flu, described at the time by a United Nations official as being “like a combination of global warming and HIV/AIDS 10 times faster than it’s running at the moment.” The World Health Organization’s official forecast was 2 million to 7.4 million dead. In fact, by late 2007, when the disease petered out, the death toll was roughly 200. In 2009 it was Mexican swine flu. WHO director general Margaret Chan said: “It really is all of humanity that is under threat during a pandemic.” The outbreak proved to be a normal flu episode. The truth is, a new global pandemic is growing less likely, not more. Mass migration to cities means the opportunity for viruses to jump from wildlife to the human species has not risen and has possibly even declined, despite media hype to the contrary. Water- and insect-borne infections—generally the most lethal—are declining as living standards slowly improve. It’s true that casual-contact infections such as colds are thriving—but only by being mild enough that their victims can soldier on with work and social engagements, thereby allowing the virus to spread. Even if a lethal virus does go global, the ability of medical science to sequence its genome and devise a vaccine or cure is getting better all the time.

### AT: Base

#### September spending bill thumps and proves base sticks with Trump regardless – party leaders get blame. Easley and Fabian 17

Easley, Jonathan, and Jordan Fabian. “Trump Bets Base Will Stick with Him on Immigration.”TheHill, 18 Sept. 2017, thehill.com/homenews/administration/350947-trump-bets-base-will-stick-with-him-on-immigration. //nhs-VA

The budding alliance with Democrats on immigration is emerging as a test of whether Trump’s personality or his policies are what put him over the top in last year’s presidential election. Trump enjoys strong backing from his core supporters: 98 percent of Republicans who voted for him in the 2016 primary still support him, according to a recent NBC News-Wall Street Journal poll. That support is unlikely to wane if Trump eventually signs legislation protecting young immigrants, several allies say. “I think ultimately they stay with him,” said a former campaign aide. “Ultimately, his base isn’t predicated on repealing DACA. It’s predicated on giving communities in Wisconsin, Pennsylvania and Michigan a voice.” Trump’s voters have stuck with him through controversies that could have ended the careers of other politicians, including his response to the violence at a white supremacist rally in Charlottesville, Va., and the “Access Hollywood” tape, in which he is heard bragging about groping women without their consent. But if Trump does go back on key campaign promises, it could present a different kind of challenge for him. As a candidate, Trump energized his supporters with his pledges to scrap DACA, deport the roughly 11 million immigrants living illegally in the U.S. and build a wall along the southern border to stop them from entering. Immigration, in short, was perhaps the biggest animating force of his candidacy. King tweeted that if reports of the president’s dealings are correct, “Trump base is blown up, destroyed, irreparable, and disillusioned beyond repair. No promise is credible.” But the president expressed confidence Republicans would stick with him even if he helps DACA recipients, telling reporters Thursday many are “very, very happy with what we’re doing.” The former campaign adviser endorsed Trump’s view, saying his support is “not tied to a specific policy, it’s tied to disrupting, it’s tied to shaking up the status quo.” “That’s what the base likes, bringing disruption to a city that has been mired in gridlock,” the aide said. On Friday, Trump tacitly acknowledged his newfound love for bipartisanship carries political risk. The president rallied supporters with a string of tough-talking early morning tweets on the terror attack at London subway station and an ESPN host who called him a white supremacist. He also reassured his backers that “CHAIN MIGRATION cannot be allowed to be part of any legislation on Immigration!” The term refers to the practice of immigrants with legal status sponsoring certain family members so that they can come to the U.S. Yet some of Trump’s allies continue to question why he seems to be prioritizing a top issue for Democrats, the status of immigrants in the U.S. illegally, over his campaign promise to build a border wall. By not demanding wall funding be attached to a DACA bill, Trump supporters say he is giving away his most valuable bargaining chip in exchange for vague promises of stronger border security from Schumer and Pelosi. Trump once bragged that his supporters are so loyal, he could shoot someone in the street and he would not lose support. Dan Stein, president of the Federation for American Immigration Reform, said Trump’s proposed DACA deal would put that notion to the test. “Donald Trump would have been better off going onto Fifth Avenue and shooting someone,” said Stein, whose group favors lower levels of both legal and illegal immigration. “He said his base wouldn’t care if he did that. The base cares about this.” Stein speculated the president might be “convinced that dealing on DACA will win him new supporters” who could help him win in 2020. The former campaign aide said Trump’s supporters wouldn’t have a better option in 2020, regardless of what he does on immigration. “It’s not 2016 Trump against 2020 Trump,” the aide said. “It’s Trump running against [Sens.] [Elizabeth Warren](http://thehill.com/people/elizabeth-warren) or [Bernie Sanders](http://thehill.com/people/bernie-sanders), and it’s not like these voters would run to vote for the other side.” In the short term, conservatives' anger at Senate Majority Leader [Mitch McConnell](http://thehill.com/people/mitch-mcconnell) (R-Ky.) and Speaker [Paul Ryan](http://thehill.com/people/paul-ryan) (R-Wis.) has provided a buffer for Trump against the backlash from his base. Frustration with the GOP leaders gave Trump room to break with them and strike an agreement with Democrats on a deal to extend the nation’s borrowing limit and fund the government. That dynamic could persist until Republicans begin notching legislative victories of their own. “He has such a diverse coalition and his base elected him knowing that he isn’t overly ideological,” said a GOP consultant who requested anonymity. “Poll after poll shows that Republicans will blame Ryan and McConnell every single time, so he has leeway here.”

#### Muslim ban outweighs and thumps – esp. in era of fears of terror

#### Trump already increasing border security – overwhelms the link to the plan

#### Syria strike literally on Friday proves the impact to this terrible DA is terminally non-unique. Lee 4/13

Lee, Carrie. "Analysis | Why Has Trump Been Threatening To Attack Syria? (Hint: It’S Probably Not About Syria.)." Washington Post. N. p., 13 Apr. 2018. Web. 14 Apr. 2018. //nhs-VA

Trump is playing to his base The real reason for the attack threats is probably this: Midterms are approaching, the Russia investigation is escalating and former FBI director James B. Comey’s book is being released. Research shows that diversionary wars — wars started to distract the public from domestic unrest — are [hard to start](https://pdfs.semanticscholar.org/0bc8/a4c06b87b488f3f7204d447c57d0ff1d359e.pdf) in [democracies](http://pages.ucsd.edu/~bslantchev/courses/pdf/Levy%20-%20Diversionary%20Theory%20of%20War%2C%20A%20Critique.pdf) and rarely have the [intended effect](https://www.cambridge.org/core/journals/international-organization/article/benefit-of-the-doubt-testing-an-informational-theory-of-the-rally-effect/CEF2140068A606F5E8CB2DBBC26A6F50). Military operations in an already existing conflict are much easier to manipulate — and are not as risky as starting a war. [My research](https://carrieannleedotcom.files.wordpress.com/2018/03/lee_thepoliticsofmilitaryoperations.pdf) finds that, during periods of political fragility, U.S. presidents systematically manipulate the timing and tempo of military operations. That’s true most often in the lead-up to elections, when public opinion quite literally determines the fate of a president. However, presidents also manipulate military operations when they need support from their domestic political base — for example, during negotiations over major pieces of legislation, bids for legacy, midterms or while threatened with impeachment. Trump bookended his tweets about Syria with comments both about special counsel Robert S. Mueller III’s [investigation](https://twitter.com/realDonaldTrump/status/984020136255541248) and relations with [Russia](https://twitter.com/realDonaldTrump/status/984032798821568513). That suggests that the president sees these as linked. And with Republicans expecting to take heavy losses in the midterms, Trump may see an airstrike on Syria as a way to motivate Republican voters and boost his approval ratings. If he does order a missile strike, Trump would be in good company, historically speaking. President Franklin D. Roosevelt scheduled the World War II [invasion of North Africa](https://warontherocks.com/2017/11/16075/) before the 1942 midterm elections. President Richard B. Nixon prematurely announced a [peace deal](https://www.amazon.com/Vietnam-History-Stanley-Karnow/dp/0140265473) on Vietnam on the eve of the 1972 general election. And President Bill Clinton [launched airstrikes](https://www.nytimes.com/1998/12/17/world/attack-iraq-overview-impeachment-vote-house-delayed-clinton-launches-iraq-air.html) against Sudan and Afghanistan the day that Monica Lewinsky appeared before a grand jury. Trump would also be learning from experience. His April 2017 airstrikes in Syria met with [approval ratings of more than 66 percent](https://www.politico.com/story/2017/04/poll-syria-airstrikes-237133) from the general public and 82 percent from Republicans. The strikes stopped a month-long [downhill slide](https://projects.fivethirtyeight.com/trump-approval-ratings/) in his approval ratings and drew attention away from congressional Republicans’ inability to repeal the Affordable Care Act, as they had promised.

### AT: Terror

#### No link – we only defend plea bargaining where deportations are offered as the plea deal

#### No link; terrorists are tried in Military tribunals and are NOT part of the criminal justice system.

Edgar 1 [Timothy; Legislative Counsel at the ACLU; “MEMORANDUM TO CONGRESS ON PRESIDENT BUSH'S ORDER ESTABLISHING MILITARY TRIBUNALS”; https://www.aclu.org/other/memorandum-congress-president-bushs-order-establishing-military-tribunals]

On November 13, 2001, President Bush issued a "Military Order" providing for potentially indefinite detention of any non-citizen accused of terrorism, and permitting trial of such defendants in a military commission with a provision purporting to preclude all judicial review. Such military commissions would not follow the same process as courts-martial under the Uniform Code of Military Justice, and would afford few, if any, of the protections available in the ordinary military justice system.

The order exceeds the President's constitutional authority. It was issued without any authorization by the Congress to establish such tribunals and without a formal declaration of war. It circumvents the basic statutory requirement - at the heart of the compromise on detention in the USA Patriot Act1 -- that non-citizens suspected of terrorism must be charged with a crime or immigration violation within seven days of being taken into custody, and that such detainees will have full access to the federal courts.

The breadth of the President's order raises serious constitutional concerns. It permits the United States criminal justice system to be swept aside merely on the President's finding that he has "reason to believe" that a non-citizen may be involved in terrorism. It makes no difference whether those charged are captured abroad on the field of battle or at home by federal or state police. It makes no difference whether the individual is a visitor or a long-term legal resident. Finally while the order applies in terms only to non-citizens, the precedents on which the President relies make no such distinction, permitting the order to be extended to cover United States citizens at the stroke of a pen.

#### Their rhetoric that argues immigrants are inherently criminals and terrorists is exactly what we criticize – it’s racist and that’s a decision-rule: racism must be rejected in every instance.

Memmi ’00 [Albert is a Professor Emeritus of Sociology @ Unv. Of Paris, Albert-; RACISM, translated by Steve Martinot,]

The struggle against racism will be long, difficult, without intermission, without remission, probably never achieved, yet for this very reason, it is a struggle to be undertaken without surcease and without concessions. One cannot be indulgent toward racism. One cannot even let the monster in the house, especially not in a mask. To give it merely a foothold means to augment the bestial part in us and in other people which is to diminish what is human. To accept the racist universe to the slightest degree is to endorse fear, injustice, and violence. It is to accept the persistence of the dark history in which we still largely live. It is to agree that the outsider will always be a possible victim (and which [person] man is not [themself] himself an outsider relative to someone else?). Racism illustrates in sum, the inevitable negativity of the condition of the dominated; that is it illuminates in a certain sense the entire human condition. The anti-racist struggle, difficult though it is, and always in question, is nevertheless one of the prologues to the ultimate passage from animality to humanity. In that sense, we cannot fail to rise to the racist challenge. However, it remains true that one’s moral conduct only emerges from a choice: one has to want it. It is a choice among other choices, and always debatable in its foundations and its consequences. Let us say, broadly speaking, that the choice to conduct oneself morally is the condition for the establishment of a human order for which racism is the very negation. This is almost a redundancy. One cannot found a moral order, let alone a legislative order, on racism because racism signifies the exclusion of the other and his or her subjection to violence and domination. From an ethical point of view, if one can deploy a little religious language, racism is “the truly capital sin.” 22 It is not an accident that almost all of humanity’s spiritual traditions counsel respect for the weak, for orphans, widows, or strangers. It is not just a question of theoretical counsel respect for the weak, for orphans, widows or strangers. It is not just a question of theoretical morality and disinterested commandments. Such unanimity in the safeguarding of the other suggests the real utility of such sentiments. All things considered, we have an interest in banishing injustice, because injustice engenders violence and death. Of course, this is debatable. There are those who think that if one is strong enough, the assault on and oppression of others is permissible. But no one is ever sure of remaining the strongest. One day, perhaps, the roles will be reversed. All unjust society contains within itself the seeds of its own death. It is probably smarter to treat others with respect so that they treat you with respect. “Recall,” says the bible, “that you were once a stranger in Egypt,” which means both that you ought to respect the stranger because you were a stranger yourself and that you risk becoming once again someday. It is an ethical and a practical appeal – indeed, it is a contract, however implicit it might be. In short, the refusal of racism is the condition for all theoretical and practical morality. Because, in the end, the ethical choice commands the political choice. A just society must be a society accepted by all. If this contractual principle is not accepted, then only conflict, violence, and destruction will be our lot. If it is accepted, we can hope someday to live in peace. True, it is a wager, but the stakes are irresistible.

#### Lone Wolf Terror is unstoppable

Purdy 17 – Chris, The Canadian Press (“Edmonton attacks are instances of ‘unstoppable terrorism,’ experts say” Sun., Oct. 1, 2017, https://www.thestar.com/news/canada/2017/10/01/edmonton-attacks-are-instances-of-unstoppable-terrorism-experts-say.html) SJDI

EDMONTON—Terrorism experts say a poorly planned attack in Edmonton may be have been inspired rather than directed by Daesh militants, a type of attack that is difficult if not impossible to prevent. Police say a man in a car first ran down, then stabbed, an officer outside Commonwealth Stadium during an Edmonton Eskimos football game Saturday night before running away. A few hours later, police chased a suspect driving a U-Haul cube van as it struck four pedestrians downtown. The officer was not seriously injured but there was no word on the pedestrians. A Daesh flag was found in the car that hit the officer. A 30-year-old man is in custody. “I’m not sure how you’re going to stop an attack of this nature,” said Phil Gurski, a threat consultant in Ottawa and former analyst with the Canadian Security Intelligence Service. Gurski said it’s clear the suspect wasn’t very smart, since he handed a police officer his driver’s licence at a checkstop that connected him with the car that struck the officer, sparking the police chase. The New York City Police Department said that one person, Akayed Ullah, was in custody for an attempted terror attack after an explosion in a passageway linking the Port Authority Bus Terminal with the subway. But he said such attacks are “unstoppable terrorism.” “It’s impossible to stop unless the person’s already on your radar,” Gurski said. Edmonton Mayor Don Iveson called the suspect a “lone wolf,” adding “random acts of sick people are difficult to anticipate.” Stephanie Carvin, a terrorism expert at Carleton University, said the attack looked unsophisticated. “It seems to have been carried out very badly (thankfully) so probably not a mastermind here, folks,” she said on Twitter. “But attacks against crowds and sports fans has been a HUGE fear in Canada over the last 18 months. This will not help that.” Edmonton’s mega mall and oil industry have raised concerns in the past that the Alberta capital might be a terrorist target. In 2015, the RCMP investigated a reported video from Al-Shabab that appeared to urge Muslims to attack shopping malls in western countries, including the West Edmonton Mall. Three years earlier, the federal government set up a counter-terrorism unit in the province to protect the energy industry from possible extremist attacks. Amarnath Amarasingam, an expert on extremism at the University of Waterloo, said the Edmonton attack appears to be a “fairly typical ISIS-inspired one,” although it may be difficult to confirm. The group has recently been sloppy about claiming credit for attacks and is also reluctant to do so when attackers are in custody, he said. The group has long called on followers to attack wherever in the world they may be, Amarasingam added. “Any western city will do, whether in Europe or North America,” he said. “For them, it’s about sowing fear, turning communities against one another, and creating the impression that they are everywhere.” The leader of Daesh recently released an audio message reiterating the need for attacks in the west, especially on military members or police officers of NATO countries, said Edmonton security consultant David Jones. Jones said it wasn’t a coincidence the officer was stabbed outside the football stadium, which was also hosting a military appreciation night. Canada’s spy agency views terrorist acts at home as a “constant” threat, according to a briefing note prepared last November for Michel Coulombe, then-director of CSIS. “The principal terrorist threat to Canada remains that posed by violent extremists who are inspired to carry out an attack in Canada,” reads the document obtained by The Canadian Press under Access to Information legislation. “Terrorist activity can be sudden or spontaneous, or in some cases, take months or years in planning and logistics.”

#### Evidence is unreliable

Weiser 1 – Benjamin, NYT (“Defense Attacks Reliability Of a Witness in Terror Case” May 4, 2001, http://www.nytimes.com/2001/05/04/nyregion/defense-attacks-reliability-of-a-witness-in-terror-case.html) SJDI

A defense lawyer in the embassy bombings trial charged yesterday that a crucial government witness who was a former aide to Osama bin Laden had lied repeatedly, to the American authorities to win protection for himself, and again when he took the witness stand. The lawyer, Sam A. Schmidt, who represents Wadih El-Hage, one of four men on trial accused of joining a terrorism conspiracy led by Mr. bin Laden, called the witness, Jamal Ahmed Al-Fadl, ''totally unreliable.'' ''He is selling what he thinks the United States government wants,'' Mr. Schmidt said, adding that Mr. Al-Fadl also lied to Mr. bin Laden to hide that he had stolen money from him. ''I submit to you that that's what he did here in court where he thought he could do it, and get away with it,'' Mr. Schmidt said. The attack on Mr. Al-Fadl came on a day when the defense began its closing arguments in Federal District Court in Manhattan. But there was also behind-the-scenes jockeying yesterday over allegations by other defense lawyers in the case that prosecutors were withholding information, which the defense lawyers said they needed to prepare for a possible death penalty phase. Yesterday morning, a federal prosecutor, Kenneth M. Karas, concluded the government's summation. He cited what he said were a series of lies by Mr. El-Hage before a federal grand jury that was investigating Mr. bin Laden and his group, Al Qaeda, before and after the Aug. 7, 1998 embassy bombings in Kenya and Tanzania. ''He's going to lie to protect the Al Qaeda conspiracy,'' Mr. Karas said, ''to protect the Al Qaeda people who are being investigated by the American government.'' Mr. Karas said that the evidence presented showed that Mr. El-Hage and his three co-defendants ''chose to pursue the criminal conduct that is charged in this case, and they were not forced into carrying out these deplorable acts by blind allegiance to any oath or forced adherence to any religious principals.'' In his summation, Mr. Schmidt frequently contrasted his client, Mr. El-Hage, with the witness, Mr. Al-Fadl, whom he called an ''unworthy source of information.'' Mr. Schmidt has maintained that Mr. El-Hage, 40, worked only for Mr. bin Laden in his legitimate businesses. ''Mr. El-Hage was working like a dog,'' Mr. Schmidt said, ''trying to make money for Mr. bin Laden.'' He added that his client, unlike Mr. Al-Fadl, ''did not steal from the business.'' Mr. Schmidt challenged the government's depiction of Mr. El-Hage as the ''gatekeeper'' to Mr. bin Laden. He also said Mr. El-Hage was treated unfairly before the grand jury, and was asked ambiguous questions. He said there was no evidence that Mr. El-Hage had participated in any conspiracy to kill Americans, and called Mr. El-Hage, a naturalized citizen who was born in Lebanon, ''an American with an American family.''

#### No WMD or escalation

Weiss 15—Visiting scholar at the Center for International Security and Cooperation at Stanford University, a member of the National Advisory Board of the Center for Arms Control and Non-Proliferation in Washington, DC, and a former professor of applied mathematics and engineering at Brown and the University of Maryland [Leonard, “On fear and nuclear terrorism,” *Bulletin of the Atomic Scientists*, March/April, Vol. 71, No. 2, p. 75-87]

-Need time, planning, resources, experts for nukes – none of these are available for terrorists

-Cannot steal one – overprotected

-High risk of discovery + time required to build a nuke serves as a deterrent

If the fear of nuclear war has thus had some positive effects, the fear of nuclear terrorism has had mainly negative effects on the lives of millions of people around the world, including in the United States, and even affects negatively the prospects for a more peaceful world. Although there has been much commentary on the interest that Osama bin Laden, when he was alive, reportedly expressed in obtaining nuclear weapons (see Mowatt-Larssen, 2010), and some terrorists no doubt desire to obtain such weapons, evidence of any terrorist group working seriously toward the theft of nuclear weapons or the acquisition of such weapons by other means is virtually nonexistent. This may be due to a combination of reasons. Terrorists understand that it is not hard to terrorize a population without committing mass murder: In 2002, a single sniper in the Washington, DC area, operating within his own automobile and with one accomplice, killed 10 people and changed the behavior of virtually the entire populace of the city over a period of three weeks by instilling fear of being a randomly chosen shooting victim when out shopping. Terrorists who believe the commission of violence helps their cause have access to many explosive materials and conventional weapons to ply their “trade.” If public sympathy is important to their cause, an apparent plan or commission of mass murder is not going to help them, and indeed will make their enemies even more implacable, reducing the prospects of achieving their goals. The acquisition of nuclear weapons by terrorists is not like the acquisition of conventional weapons; it requires significant time, planning, resources, and expertise, with no guarantees that an acquired device would work. It requires putting aside at least some aspects of a group’s more immediate activities and goals for an attempted operation that no terrorist group has previously accomplished. While absence of evidence does not mean evidence of absence (as then-Secretary of Defense Donald Rumsfeld kept reminding us during the search for Saddam’s nonexistent nuclear weapons), it is reasonable to conclude that the fear of nuclear terrorism has swamped realistic consideration of the threat. As Brian Jenkins, a longtime observer of terrorist groups, wrote in 2008: Nuclear terrorism … turns out to be a world of truly worrisome particles of truth. Yet it is also a world of fantasies, nightmares, urban legends, fakes, hoaxes, scams, stings, mysterious substances, terrorist boasts, sensational claims, description of vast conspiracies, allegations of coverups, lurid headlines, layers of misinformation and disinformation. Much is inconclusive or contradictory. Only the terror is real. (Jenkins, 2008: 26) The three ways terrorists might get a nuke To illustrate in more detail how fear has distorted the threat of nuclear terrorism, consider the three possibilities for terrorists to obtain a nuclear weapon: steal one; be given one created by a nuclear weapon state; manufacture one. None of these possibilities has a high probability of occurring. Stealing nukes. Nothing is better protected in a nuclear weapon state than the weapons themselves, which have multiple layers of safeguards that, in the United States, include intelligence and surveillance, electronic locks (including so-called “permissive action links” that prevent detonation unless a code is entered into the lock), gated and locked storage facilities, armed guards, and teams of elite responders if an attempt at theft were to occur. We know that most weapon states have such protections, and there is no reason to believe that such protections are missing in the remaining states, since no weapon state would want to put itself at risk of an unintended nuclear detonation of its own weapons by a malevolent agent. Thus, the likelihood of an unauthorized agent secretly planning a theft, without being discovered, and getting access to weapons with the intent and physical ability to carry them off in the face of such layers of protection is extremely low—but it isn’t impossible, especially in the case where the thief is an insider. The insider threat helped give credibility to the stories, circulating about 20 years ago, that there were “loose nukes” in the USSR, based on some statements by a Soviet general who claimed the regime could not account for more than 40 “suitcase nukes” that had been built. The Russian government denied the claim, and at this point there is no evidence that any nukes were ever loose. Now, it is unclear if any such weapon would even work after 20 years of corrosion of both the nuclear and non-nuclear materials in the device and the radioactive decay of certain isotopes. Because of the large number of terrorist groups operating in its geographic vicinity, Pakistan is frequently suggested as a possible candidate for scenarios in which a terrorist group either seizes a weapon via collaboration with insiders sympathetic to its cause, or in which terrorists “inherit” nuclear weapons by taking over the arsenal of a failed nuclear state that has devolved into chaos. Attacks by a terrorist group on a Pakistani military base, at Kamra, which is believed to house nuclear weapons in some form, have been referenced in connection with such security concerns (Nelson and Hussain, 2012). However, the Kamra base contained US fighter planes, including F-16s, used to bomb Taliban bases in tribal areas bordering Afghanistan, so the planes, not nuclear weapons, were the likely target of the terrorists, and in any case the mission was a failure. Moreover, Pakistan is not about to collapse, and the Pakistanis are known to have received major international assistance in technologies for protecting their weapons from unauthorized use, store them in somewhat disassembled fashion at multiple locations, and have a sophisticated nuclear security structure in place (see Gregory, 2013; Khan, 2012). However, the weapons are assembled at times of high tension in the region, and, to keep a degree of uncertainty in their location, they are moved from place to place, making them more vulnerable to seizure at such times (Goldberg and Ambinder, 2011). (It should be noted that US nuclear weapons were subject to such risks during various times when the weapons traveled US highways in disguised trucks and accompanying vehicles, but such travel and the possibility of terrorist seizure was never mentioned publicly.) Such scenarios of seizure in Pakistan would require a major security breakdown within the army leading to a takeover of weapons by a nihilistic terrorist group with little warning, while army loyalists along with India and other interested parties (like the United States) stand by and do not intervene. This is not a particularly realistic scenario, but it’s also not a reason to conclude that Pakistan’s nuclear arsenal is of no concern. It is, not only because of an internal threat, but especially because it raises the possibility of nuclear war with India. For this and other reasons, intelligence agencies in multiple countries spend considerable resources tracking the Pakistani nuclear situation to reduce the likelihood of surprises. But any consideration of Pakistan’s nuclear arsenal does bring home (once again) the folly of US policy in the 1980s, when stopping the Pakistani nuclear program was put on a back burner in order to prosecute the Cold War against the Soviets in Afghanistan (which ultimately led to the establishment of Al Qaeda). Some of the loudest voices expressing concern about nuclear terrorism belong to former senior government officials who supported US assistance to the mujahideen and the accompanying diminution of US opposition to Pakistan’s nuclear activities. Acquiring nukes as a gift. Following the shock of 9/11, government officials and the media imagined many scenarios in which terrorists obtain nuclear weapons; one of those scenarios involves a weapon state using a terrorist group for delivery of a nuclear weapon. There are at least two reasons why this scenario is unlikely: First, once a weapon state loses control of a weapon, it cannot be sure the weapon will be used by the terrorist group as intended. Second, the state cannot be sure that the transfer of the weapon has been undetected either before or after the fact of its detonation (see Lieber and Press, 2013). The use of the weapon by a terrorist group will ultimately result in the transferring nation becoming a nuclear target just as if it had itself detonated the device. This is a powerful deterrent to such a transfer, making the transfer a low-probability event. Although these first two ways in which terrorists might obtain a nuclear weapon have very small probabilities of occurring (there is no available data suggesting that terrorist groups have produced plans for stealing a weapon, nor has there been any public information suggesting that any nuclear weapon state has seriously considered providing a nuclear weapon to a sub-national group), the probabilities cannot be said to be zero as long as nuclear weapons exist. Manufacturing a nuclear weapon. To accomplish this, a terrorist group would have to obtain an appropriate amount of one of the two most popular materials for nuclear weapons, highly enriched uranium (HEU) or plutonium separated from fuel used in a production reactor or a power reactor. Weapon-grade plutonium is found in weapon manufacturing facilities in nuclear weapon states and is very highly protected until it is inserted in a weapon. Reactor-grade plutonium, although still capable of being weaponized, is less protected, and in that sense is a more attractive target for a terrorist, especially since it has been produced and stored in prodigious quantities in a number of nuclear weapon states and non-weapon states, particularly Japan. But terrorist use of plutonium for a nuclear explosive device would require the construction of an implosion weapon, requiring the fashioning of an appropriate explosive lens of TNT, a notoriously difficult technical problem. And if a high nuclear yield (much greater than 1 kiloton) is desired, the use of reactor-grade plutonium would require a still more sophisticated design. Moreover, if the plutonium is only available through chemical separation from some (presumably stolen) spent fuel rods, additional technical complications present themselves. There is at least one study showing that a small team of people with the appropriate technical skills and equipment could, in principle, build a plutonium-based nuclear explosive device (Mark et al., 1986). But even if one discounts the high probability that the plan would be discovered at some stage (missing plutonium or spent fuel rods would put the authorities and intelligence operations under high alert), translating this into a real-world situation suggests an extremely low probability of technical success. More likely, according to one well-known weapon designer,4 would be the death of the person or persons in the attempt to build the device. There is the possibility of an insider threat; in one example, a team of people working at a reactor or reprocessing site could conspire to steal some material and try to hide the diversion as MUF (materials unaccounted for) within the nuclear safeguards system. But this scenario would require intimate knowledge of the materials accounting system on which safeguards in that state are based and adds another layer of complexity to an operation with low probability of success. The situation is different in the case of using highly enriched uranium, which presents fewer technical challenges. Here an implosion design is not necessary, and a “gun type” design is the more likely approach. Fear of this scenario has sometimes been promoted in the literature via the quotation of a famous statement by nuclear physicist Luis Alvarez that dropping a subcritical amount of HEU onto another subcritical amount from a distance of five feet could result in a nuclear yield. The probability of such a yield (and its size) would depend on the geometry of the HEU components and the amount of material. More likely than a substantial nuclear explosion from such a scenario would be a criticality accident that would release an intense burst of radiation, killing persons in the immediate vicinity, or (even less likely) a low-yield nuclear “fizzle” that could be quite damaging locally (like a large TNT explosion) but also carry a psychological effect because of its nuclear dimension. In any case, since the critical mass of a bare metal perfect sphere of pure U-235 is approximately 56 kilograms, stealing that much highly enriched material (and getting away without detection, an armed fight, or a criticality accident) is a major problem for any thief and one significantly greater than the stealing of small amounts of HEU and lower-enriched material that has been reported from time to time over the past two decades, mostly from former Soviet sites that have since had their security greatly strengthened. Moreover, fashioning the material into a form more useful or convenient for explosive purposes could likely mean a need for still more material than suggested above, plus a means for machining it, as would be the case for HEU fuel assemblies from a research reactor. In a recent paper, physics professor B. C. Reed discusses the feasibility of terrorists building a low-yield, gun-type fission weapon, but admittedly avoids the issue of whether the terrorists would likely have the technical ability to carry feasibility to realization and whether the terrorists are likely to be successful in stealing the needed material and hiding their project as it proceeds (Reed, 2014). But this is the crux of the nuclear terrorism issue. There is no argument about feasibility, which has been accepted for decades, even for plutonium-based weapons, ever since Ted Taylor first raised it in the early 1970s5 and a Senate subcommittee held hearings in the late 1970s on a weapon design created by a Harvard dropout from information he obtained from the public section of the Los Alamos National Laboratory library (Fialka, 1978). Likewise, no one can deny the terrible consequences of a nuclear explosion. The question is the level of risk, and what steps are acceptable in a democracy for reducing it. Although the attention in the literature given to nuclear terrorism scenarios involving HEU would suggest major attempts to obtain such material by terrorist groups, there is only one known case of a major theft of HEU. It involves a US government contractor processing HEU for the US Navy in Apollo, Pennsylvania in the 1970s at a time when security and materials accounting were extremely lax. The theft was almost surely carried out by agents of the Israeli government with the probable involvement of a person or persons working for the contractor, not a sub-national terrorist group intent on making its own weapons (Gilinsky and Mattson, 2010). The circumstances under which this theft occurred were unique, and there was significant information about the contractor’s relationship to Israel that should have rung alarm bells and would do so today. Although it involved a government and not a sub-national group, the theft underscores the importance of security and accounting of nuclear materials, especially because the technical requirements for making an HEU weapon are less daunting than for a plutonium weapon, and the probability of success by a terrorist group, though low, is certainly greater than zero. Over the past two decades, there has been a significant effort to increase protection of such materials, particularly in recent years through the efforts of nongovernmental organizations like the International Panel on Fissile Materials6 and advocates like Matthew Bunn working within the Obama administration (Bunn and Newman, 2008), though the administration has apparently not seen the need to make the materials as secure as the weapons themselves. Are terrorists even interested in making their own nuclear weapons? A recent paper (Friedman and Lewis, 2014) postulates a scenario by which terrorists might seize nuclear materials in Pakistan for fashioning a weapon. While jihadist sympathizers are known to have worked within the Pakistani nuclear establishment, there is little to no evidence that terrorist groups in or outside the region are seriously trying to obtain a nuclear capability. And Pakistan has been operating a uranium enrichment plant for its weapons program for nearly 30 years with no credible reports of diversion of HEU from the plant. There is one stark example of a terrorist organization that actually started a nuclear effort: the Aum Shinrikyo group. At its peak, this religious cult had a membership estimated in the tens of thousands spread over a variety of countries, including Japan; its members had scientific expertise in many areas; and the group was well funded. Aum Shinrikyo obtained access to natural uranium supplies, but the nuclear weapon effort stalled and was abandoned. The group was also interested in chemical weapons and did produce sarin nerve gas with which they attacked the Tokyo subway system, killing 13 persons. Aum Shinrikyo is now a small organization under continuing close surveillance. What about highly organized groups, designated appropriately as terrorist, that have acquired enough territory to enable them to operate in a quasi-governmental fashion, like the Islamic State (IS)? Such organizations are certainly dangerous, but how would nuclear terrorism fit in with a program for building and sustaining a new caliphate that would restore past glories of Islamic society, especially since, like any organized government, the Islamic State would itself be vulnerable to nuclear attack? Building a new Islamic state out of radioactive ashes is an unlikely ambition for such groups. However, now that it has become notorious, apocalyptic pronouncements in Western media may begin at any time, warning of the possible acquisition and use of nuclear weapons by IS. Even if a terror group were to achieve technical nuclear proficiency, the time, money, and infrastructure needed to build nuclear weapons creates significant risks of discovery that would put the group at risk of attack. Given the ease of obtaining conventional explosives and the ability to deploy them, a terrorist group is unlikely to exchange a big part of its operational program to engage in a risky nuclear development effort with such doubtful prospects. And, of course, 9/11 has heightened sensitivity to the need for protection, lowering further the probability of a successful effort.

## CPs

### AT: Attorney General

#### Perm do the CP – it’s normal means.

#### Perm do both – double solvency and the CP is impossible absent the plan.

#### Solvency deficit – they can’t solve local courts since state attorney generals can buffer back against the federal attorney general but a blanket legislative ban on plea bargaining has to be followed.

#### Federal attorney general has no jurisdiction to pass policies; your card is talking about the Alaska attorney general. Winkler 10

Winkler, Sarah. “How an Attorney General Works.” HowStuffWorks, HowStuffWorks, 23 Mar. 2010, people.howstuffworks.com/government/local-politics/attorney-general1.htm. //nhs-VA

As the chief officer of the Department of Justice, the attorney general *enforces* federal laws, provides legal counsel in federal cases, interprets the laws that govern executive departments, heads federal jails and penal institutions, and examines alleged violations of federal laws. In addition, the attorney general may be called upon to represent the United States in the Supreme Court in cases of exceptional importance. The attorney general serves in the Cabinet of the president of the United States. The attorney general is in charge of supervising United States attorneys and marshals in their respective judicial districts. While attorneys are responsible for prosecuting offenses against the United States and prosecuting or defending in proceedings in which the United States requires representation, marshals issue orders and processes under the authority of the United States. States attorney generals have many of the same duties as the federal attorney general but on a smaller statewide scale. The specific duties of attorney general vary from state to state. Some attorney generals are elected in statewide contests, while others are appointed by the governor, legislature or supreme court. The projects that an attorney general can take on are wide ranging. For example, Eric Holder has voiced opinions on [waterboarding](https://science.howstuffworks.com/water-boarding.htm), the close of Guantanamo Bay detention camp and the transfer of accused terrorists to jails on U.S. soil. On the state level, attorney generals might challenge the constitutionality of a law. In recent news, 11 state attorney generals have moved to challenge the constitutionality of the healthcare reform bill [source: [Richey](http://www.csmonitor.com/USA/Justice/2010/0322/Attorneys-general-in-11-states-poised-to-challenge-healthcare-bill)].

#### Links to the net ben – Sessions’ policies are politicized.

### AT: State Sanctuary Cities

#### Permutation do both—shields the link to the net benefit because it’s seen as the federal government listening to the states.

#### Literally solves zero % of the aff – our offense isn’t from when deportations are a possible sentence but part of the plea deal

#### Sanctuary cities up now but so are plea deal deportations – CP doesn’t solve. Byrne 4/19

Byrne, John. "Emanuel Wins Court Ruling In Sanctuary City Lawsuit Against Trump Administration." chicagotribune.com. N. p., 19 Apr. 2018. Web. 20 Apr. 2018. //nhs-VA

Mayor [Rahm Emanuel](http://www.chicagotribune.com/topic/politics-government/government/rahm-emanuel-PEPLT000007532-topic.html) called on President Donald Trump’s [Justice Department](http://www.chicagotribune.com/topic/crime-law-justice/u.s.-department-of-justice-ORGOV0000160-topic.html) Thursday to hand over grant money to Chicago, after a panel of federal judges said the funds can’t be withheld from so-called sanctuary cities.

The 7th Circuit Court of Appeals in Chicago upheld a nationwide injunction prohibiting Attorney General [Jeff Sessions](http://www.chicagotribune.com/topic/politics-government/government/jeff-sessions-PEPLT005938-topic.html) from requiring cities give immigration agents access to undocumented immigrants in their lock-ups in order to get certain public safety grants.

Emanuel quickly called an afternoon news conference at [City Hall](http://www.chicagotribune.com/topic/politics-government/government/chicago-city-hall-PLCUL00217-topic.html) to trumpet his latest win in the city’s lawsuit to stop the Trump administration from withholding the money.

“The Trump Justice Department could actually say ‘OK, we’re going to go forward with these grants, and let’s fight the case out in court,’ ” Emanuel said, flanked by a crowd of aldermen and city lawyers. “But they refuse to give municipalities like Chicago and other cities around the country the resources to fight crime and gun violence, because they think fighting us on the principle of being a sanctuary, welcoming city, is more important than helping the police departments get the technology they need to do a better job in public safety.”

And Democratic U.S. Sen. Dick Durbin applauded the court decision, saying Trump’s policy pressured “local communities to join in the president’s mass deportation agenda.”

The judges’ strongly worded ruling stated that America’s Founding Fathers understood a concentration of power “threatens individual liberty” and established the separation of powers as “a bulwark against such tyranny.”

“The attorney general in this case used the sword of federal funding to conscript state and local authorities to aid in federal civil immigration enforcement,” the ruling states. “But the power of the purse rests with Congress, which authorized the federal funds at issue and did not impose any immigration enforcement conditions on the receipt of such funds.”

#### Immigration courts falls under the authority of the DOJ which means the CP is impossible.

KIND 15. Organization in regards to immigration."The Immigration Court System." Kids in Need of Defense. KIND, Apr. 2015. Web. 13 Jan. 2018. <https://supportkind.org/wp-content/uploads/2015/04/Chapter-3-The-Immigration-Court-System.pdf>. DLuo

What is the immigration court system? The Immigration Court system is located within the U.S. Department of Justice's Executive Office for Immigration Review (EOIR). EOIR exercises its functions and duties under the power of the Attorney General. Decisions of the Attorney General "with respect to all questions of law" are controlling unless overturned by a federal court.1 EOIR is comprised of 58 administrative immigration courts located throughout the United States and the Board of Immigration Appeals (BIA), an administrative appellate body. Immigration judges conduct removal hearings and decide whether or not a noncitizen can remain in the United States. Immigration judges advise noncitizens of their legal rights, hear testimony, make credibility findings and rulings on the admissibility of evidence, entertain legal arguments, adjudicate waivers and applications for relief, make factual findings and legal rulings, and issue final orders of removal. Immigration judges are administrative law judges, but they are not appointed pursuant to the Administrative Procedures Act.

#### No jurisdiction in deportations – the Supremacy Clause preempts the states. Price 07

Price, Susan. “STATE VERSUS FEDERAL POWER TO REGULATE IMMIGRATION.” STATE VERSUS FEDERAL POWER TO REGULATE IMMIGRATION, 14 Nov. 2007, www.cga.ct.gov/2007/rpt/2007-R-0621.htm. Susan Price is Associate Attorney, Principle Analyst. //nhs-VA

Many, but not all, state laws addressing immigration are preempted by federal law. The U.S. Supreme Court has ruled that the federal government has broad and exclusive power to regulate immigration, preempting state and local laws that also attempt to do so. In this context, state regulation of immigration means a state law or local ordinance that makes a determination of who should or should not be admitted into the country and the conditions under which a legal entrant may remain. State laws that tangentially affect immigration, such as employment licensing laws that can be revoked for violations of federal immigration laws, are expressly permissible. There is no bright-line test for determining when states can validly act in the immigration arena; litigants must seek court rulings on a case-by-case basis. This has resulted in substantial uncertainty and significant inconsistencies in court approaches to these questions. The group “State Legislators for Legal Immigration” describes its mission as “providing a network of state legislators who are committed to working together in demanding full cooperation among our federal, state and local governments in eliminating all economic attractions and incentives (including, but not limited to: public benefits, welfare, education and employment opportunities) for illegal aliens, as well as securing our borders against unlawful invasion.” Its website ([http://www.statelegislatorsforlegalimmigration.com](http://www.statelegislatorsforlegalimmigration.com/)) lists 31 states that have one or more legislators belonging to the group. The states are: Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Utah, Virginia, and West Virginia. PREEMPTION OF STATE LAWS REGULATING IMMIGRATION The Supremacy Clause of the U.S. Constitution invalidates (preempts) state laws that interfere with or are contrary to federal law (Article VI, Cl. 2). With respect to immigration-related matters, the U.S. Supreme Court has held that: the regulation of aliens is so intimately blended and intertwined with responsibilities of the national government that where it acts, and the state also acts on the same subject, the act of Congress or treaty is supreme; and the law of the state, though enacted in the exercise of powers not controverted, must yield to it. And where the federal government, in the exercise of its superior authority in this field, has enacted a complete scheme of regulation….states cannot, inconsistently with the purpose of Congress, conflict or interfere with, curtail or complement, the federal law, or enforce additional or auxiliary regulations. (*Hines v. Davidowitz,* 312 U.S. 52 (1941)). Preemption can be express (i.e., stated in statute) or implied from a federal statutory scheme. Examples of implied preemption include state or local actions (1) in areas in which Congress intended to completely occupy the regulatory field or (2) that conflict with the federal scheme (*De Canas v. Bica,* 424 U.S. 351 (1976)). **PERMISSIBLE STATE ACTIONS** State and Local Employment Licensing Laws Federal immigration law expressly allows states and localities to independently regulate the employment of illegal aliens through licensing and similar laws. Its legislative history notes that the statute's reference to “licensing” encompasses “lawful state or local processes concerning the suspension, revocation or refusal to reissue a license to any person who has been found to have violated the sanctions provisions” of the federal law or “licensing or 'fitness to do business laws,' such as state farm labor contractor or forestry laws, which specifically require such licensee or contractor to refrain from hiring, recruiting or referring undocumented workers” (H.R. Rep. 99-682, 1986 USCCAN 5649, 5662). ***Enforcing Federal Immigration Laws*** It is also generally recognized that states and localities may enforce the criminal provisions of the Immigration and Nationalities Act (8 USC § 1101, *et seq.*). For example, Section 1252(c) allows state and local law enforcement to arrest and detain aliens illegally present in the United States who have prior felony convictions. And under § 287(g) of that law, the U.S. Attorney General is permitted to enter agreements with states and localities to permit their law enforcement officers to perform additional duties relating to immigration law enforcement. State and local enforcement efforts cannot impose new or additional penalties upon criminal immigration law violators. ***Denying Access to Federal Public Benefit Programs*** States that administer federal public benefits programs are permitted to follow federal rules for determining and verifying an applicant's citizenship/alienage status if that is a criterion for eligibility. Connecticut's attorney general recently ruled that while this rule is applicable to the Department of Social Services' administration of the federal Low Income House Energy Assistance Program, it is inapplicable to the community action agencies to whom the department had delegated the program's administrative functions. The agencies are not permitted to verify citizenship status (Attorney General Formal Opinion 2007-20). ***Denying Access to State Public Benefit Programs*** It appears that states can also limit access to state public benefit programs to people who are deemed “qualified aliens” under federal public benefit program laws. But laws and regulations targeting “illegal aliens,” which is not defined in federal law, may be preempted because they require state officials to make independent assessments of the legality of an applicant's presence in the United States (See generally, Feder and Gentile: *Legal Analysis of Proposed City of Hazleton Illegal Immigration Relief Act Ordinance* (Congressional Research Service, July 29, 2006)).

#### Arizona’s SB 1070 proves preemption. Kiefer 16

Kiefer, Michael. "Arizona Settles Final Issues Of SB 1070 Legal Fight." *azcentral*. N. p., 15 Sept. 2016. Web. 20 Apr. 2018. //nhs-VA

The controversial Arizona immigration omnibus law known as Senate Bill 1070 was [signed into law in April 2010](http://archive.azcentral.com/news/articles/2010/04/23/20100423arizona-immigration-law-passed.html).

The controversy apparently ended Thursday when the state of Arizona entered into agreement with a coalition of civil-rights organizations led by the American Civil Liberties Union over the last disputed parts of the legislation.

Before the law even went into effect, major parts of SB 1070 were halted by a U.S. District Court judge in a [lawsuit filed by the U.S. Department of Justice](http://archive.azcentral.com/news/articles/20100706arizona-immigration-law-federal-lawsuit.html). And most of the rest — along with other state immigration laws regarding human smuggling and denying bond to undocumented immigrants — was whittled away in subsequent federal court rulings that said immigration control was the business of federal government, not individual states.

### AT: States

#### Permutation do both—shields the link to the net benefit because it’s seen as the federal government listening to the states.

#### Interp—they get non-uniform states fiat

#### a. Lit base—no authors write about 50 states acting together.

#### b. Ground—moots the core discussion and our only areas of solvency deficits.

#### c. Education—turns debates into debates about 1% DA debates that lead to bad policy education.

#### d. \*Nonuniformity solves all of their offense.

#### Permutation do the plan and then the CP.

#### [Midterms block] They say follow-on:

1. Double-bind: either follow-on happens before midterms because GOP wants a win, so the CP links to the net benefit **OR** the aff isn’t a key issue so no-link

#### No follow-on: GOP congress will never follow through; Cade assumes an Obama presidency prior to Dems losing in 2014

#### Turn – lack of fiat means by the time the bill gets to the president’s desk it’s been bastardized by interest groups

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#### SCOTUS has explicitly ruled in favor of plea bargaining – two major cases

Douglass 01 [(John G., Associate Professor of Law, University of Richmond. J.D., Harvard Law School (1980); A.B., Dartmouth College (1977)) “Fatal Attraction? The Uneasy Courtship of Brady and Plea Bargaining” 50 Emory L.J. 437 (2001), <http://ai2-s2-pdfs.s3.amazonaws.com/6054/169b27f95c190cf8bd128fd28cdebd12dff4.pdf> DOA 1/15/18] CW

In Santobello v. New York, 404 U.S. 257 (1971), the Court defended plea bargaining, principally on grounds of efficiency: The disposition of criminal charges by agreement between the prosecutor and the accused, sometimes loosely called "plea bargaining," is an essential component of the administration of justice. Properly administered, it is to be encouraged. If every criminal charge were subjected to a full-scale trial, the States and the Federal Government would need to multiply by many times the number of judges and court facilities. Disposition of charges after plea discussions is not only an essential part of the process but a highly desirable part for many reasons. It leads to prompt and largely final disposition of most criminal cases; it avoids much of the corrosive impact of enforced idleness during pre-trial confinement for those who are denied release pending trial; it protects the public from those accused persons who are prone to continue criminal conduct even while on pretrial release; and, by shortening the time between charge and disposition, it enhances whatever may be the rehabilitative prospects of the guilty when they are ultimately imprisoned. !d. at 260-61. The previous year, in Brady v. United States, 397 U.S. 742 (1970), the Court had justified plea bargaining on the grounds that the practice offers choices-a "mutuality of advantage"-that both prosecution and defense may prefer to the burdens and uncertainties of trial. See id. at 752. Santobello marks the beginning of the Court's explicit embrace of plea bargaining. It was not until that opinion that "lingering doubts about the legitimacy of the practice were finally dispelled." Blackledge v. Allison, 431 U.S. 63, 76 (1977). See generally Albert W. Alschuler, Plea Bargaining and Its History, 79 COLUM. L. REv. 1, 40 (1979).

#### States get preempted – California with supremacy clause proves. Pettit and Notthof 4/3

David Pettit and Annie Notthof. "Federal Government Attack On California Public Lands." *NRDC*. N. p., 4/3/2018. Web. 29 Apr. 2018. //nhs-VA

Last year, Governor Brown signed in to law, SB 50 by California Senator Ben Allen, with NRDC’s strong support. SB 50 is designed to give California a chance to keep public lands public by giving the State Lands Commission a chance to buy public lands in California that the federal government is putting up for sale. This bill does not stop the feds from selling public lands, nor will it cost them a nickel because the bill gives California a right of first refusal under whatever terms the feds set out. Here is an example of how that would work. Suppose Alice owns a home and Bob has the right of first refusal if she sells it. She puts it on the market for $1 million (it’s a California house!). So Bob has a choice: he can pay her the $1 million she is asking, or pass on buying her house and she can sell it to someone else for the $1 million. Either way, Alice gets the same price. But—on the same day that EPA Secretary Scott Pruitt [announced](https://www.epa.gov/sites/production/files/2018-04/documents/mte-final-determination-notice-2018-04-02.pdf) a federal attack on California’s clean car standards, the federal government filed a lawsuit challenging SB 50 in federal court in Sacramento. The lawsuit asserts that SB 50 is preempted under federal law and violates the Supremacy Clause of the United States Constitution. Senator Allen tweeted.

#### No jurisdiction in immigration – the Supremacy Clause preempts the states. Price 07

Price, Susan. “STATE VERSUS FEDERAL POWER TO REGULATE IMMIGRATION.” STATE VERSUS FEDERAL POWER TO REGULATE IMMIGRATION, 14 Nov. 2007, www.cga.ct.gov/2007/rpt/2007-R-0621.htm. Susan Price is Associate Attorney, Principle Analyst. //nhs-VA

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### AT: Deportations

#### Perm do both – immigrants and noncitizens are different, so the CP doesn’t actually solve the aff; hold them to the text of the CP – it’s the most predictable.

#### Solvency deficit – the CP assumes deportation is as a result of the crime committed, but that’s not the aff

#### Another solvency deficit – the aff’s abolition of plea bargains is a specific instance of the technicalities of the criminal justice system being reformed, which means they don’t solve the trials advantage – it’s specific to strengthening the justice system and causing swift local reforms.

### AT: Open Borders

#### Perm do both – competition is superficial; open borders don’t mean that immigration courts don’t still exist, it just means that there is free movement of labor.

#### Links to the net benefit – the CP doesn’t eliminate courts, which means open borders would definitely trigger massive court clog that pushes us over the brink. The aff only impacts court clog in a linear manner.

#### Solvency deficit – the aff’s abolition of plea bargains is a specific instance of the technicalities of the criminal justice system being reformed, which means they don’t solve the trials advantage – it’s specific to strengthening the justice system.

### AT: Disadvantaged Business Enterprises

#### Perm do both – the plan takes place in immigration court, corporate crimes don’t apply + corporations can’t get deported AND corporations aren’t people nor can they be citizens or noncitizens.

### AT: Transparency

#### Perm do plan and all non-mutually exclusive parts of the CP – in every instance except when deportations are offered as a plea deal.

#### Perm do the CP then the plan.

#### Solvency deficit – the case isn’t about transparency; Sessions is being as transparent as possible, he literally sent out a memo instructing all prosecutors to offer deportations, so the CP solves none of the aff

#### Another solvency deficit – plea reform can’t spill over and does nothing about the *ability* of prosecutors to offer plea deals – we still get 100% of the reforms advantage since the aff takes a stance against prosecutorial discretion against *immigrants*.

#### CP solvency can’t spill over – it’s stuck within the institution of plea bargaining

### AT: Plea Ceilings

#### Perm do the CP then the plan.

#### Perm do the plan and all non-mutually exclusive parts of the CP – in every instance except when deportations are offered as a plea deal; flag this argument – we can change sentencing guidelines but don’t need to relate them specifically to plea deals

#### Solvency deficit – even if the CP changes sentencing guidelines, our uniqueness evidence indicates Sessions is trying to bypass current guidelines anyway.

#### Another solvency deficit – plea ceilings are perceived as reform but can’t spill over and does nothing about racist prosecutors – we still get 100% of the trials advantage since the aff takes a stance against prosecutorial discretion against immigrants.

#### Defendants still take deportation – even if sentencing changes, prosecutors pressure defendants into accepting deportations regardless of the charge – they’ll create a story about how unlikely it is to win at trial.

#### Putting a ceiling doesn’t solve people who are deported without a minimum sentencing requirement. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

In May 2016, ICE agents in Philadelphia called their counterparts in Boston with a tip. A student from China — named in court filings as “YY” — planned to take an English-language proficiency test on behalf of another Chinese national who was applying to colleges. After being removed from the exam room, YY admitted she was paid $100 to take the test using someone else’s passport, with the promise of an additional $800 if her score was high enough. YY pointed ICE investigators to her business school classmate, Yue Wang, 25, who also admitted to taking tests for cash. Wang took the same English exam for three other Chinese women, all of whom used their fraudulent scores to secure student visas and admission to universities in Arizona, Massachusetts, and Pennsylvania. In total, court records show, Wang earned about $7,000 from the scheme. Officials arrested Wang and the three other women in May on charges of “conspiracy to defraud the United States,” which carries a potential sentence of up to five years in prison and a fine of $250,000. “By effectively purchasing passing scores, they violated the rules and regulations of the exam, taking spots at U.S. colleges and universities that could have gone to others,” William Weinreb, acting U.S. attorney for Massachusetts, said at the time of their arrests. Wang signed a plea deal with Weinreb’s office in July that waived her right to a deportation hearing before an immigration judge. The agreement also waived her right to apply for asylum. With her signature, she swore that she had never been persecuted — and didn’t fear future persecution — in China. “Similarly, Defendant further acknowledges and states that she has not been tortured in, and has no present fear of torture in, the People’s Republic of China,” the deal stated. Two of the women who paid Wang to take the English exam — Xiaomeng Cheng, 21, and Shikun Zhang, 24 — signed agreements with identical provisions. All three were to be immediately deported back to China. Before giving her time-served and ordering her deported, the judge noted Cheng’s young age and the fact that she had no prior criminal history. “I agree with the government that any fraud on the government, on the United States, is a serious crime, and that certainly applies here to the charge against you in this case,” the judge said during a sentencing hearing. However, she said, it was also important to consider Cheng’s motivation was to “gain access to certain educational opportunities here.” Jane Peachy, the federal defender who represented Zhang, suggested these factors were lost in the plea-bargaining process. Peachy said the prosecutor told her the provisions waiving immigration due process were “non-negotiable.” She recalled a “pre-Trump” case where Massachusetts prosecutors sought similar provisions, but ultimately agreed to remove the language at the bargaining table. When The Intercept asked why the immigration waiver was non-negotiable in Zhang’s case, the U.S. Attorney’s Office for the District of Massachusetts declined to answer. “We cannot comment on the details of a plea negotiation,” Christina DiIorio-Sterling, a spokesperson for the office, said in an email. “There was nothing so horrible about Ms. Zhang or the crime that she committed that warranted such a rigid position on that part of the plea agreement,” Peachy said. “Someone like Ms. Zhang is not a threat — she’s a young woman who came here to come to college and cheated on a test.” The fourth woman has not signed a plea deal, according to the court docket.

#### [Budgets DA] Links to the net benefit – a nationwide criminal justice policy that reduces sentencing requirements means states have to account for prison overpopulation

### AT: Mandatory Minimums

#### Perm do both.

#### The CP only solves instances of drug use but that’s not most of the aff, nor can they solve asylum seekers – prosecutorial discretion persists regardless. Williams and Musgrave 11/15

Williams, Brooke, and Shawn Musgrave. “Federal Prosecutors Are Using Plea Bargains as a Secret Weapon for Deportations.” The Intercept, First Look Media, 15 Nov. 2017, 6:24 AM, theintercept.com/2017/11/15/deportations-plea-bargains-immigration/. Brooke Williams is an investigative reporter based in Boston. Her data-driven investigations have won national awards and appeared in The New York Times, the Center for Public Integrity, The San Diego Union-Tribune and inewsource.org, among other publications. She teaches journalism at Boston University and currently is working on an investigation of misconduct by federal prosecutors for The Intercept. Shawn Musgrave is an investigative reporter based in Boston. //nhs-VA

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### AT: Legalize Drugs

#### Doesn’t solve the aff – deportation is offered as a plea deal regardless of the charge and immigrants are less likely to be arrested for drug offenses anyway. Cohen 17

Cohen, Ronnie. “Undocumented Immigrants Less Likely to Be Arrested for Drugs, Alcohol.”Reuters, Thomson Reuters, 8 Aug. 2017, www.reuters.com/article/us-health-crime-immigrants/undocumented-immigrants-less-likely-to-be-arrested-for-drugs-alcohol-idUSKBN1AO2EC. //nhs-VA

As the percentage of immigrants without papers rose in the U.S. population between 1990 and 2014, arrests for drugs and drunken-driving dropped, according to a study in the American Journal of Public Health. “The results of this study challenge the notion that undocumented immigrants cause higher crime rates and general chaos in our communities,” said Josefina Alvarez, a psychology professor at Adler University in Chicago, who was not involved with the research. In the first study of its kind, researchers used immigration estimates from the Center for Migration Studies and the Pew Research Center to test the premise that those who entered the U.S. unlawfully placed the public at greater risk by driving under the influence and using illegal drugs. Contrary to the rhetoric, with every 1 percent increase in the proportion of undocumented immigrants in a population of 100,000, there were 42 fewer drunken-driving arrests, 22 fewer drug arrests and roughly one less drug overdose, the study found. Researchers found no difference in the frequency of drunken-driving deaths. “The debate, both public and political, has far outpaced the research,” said Michael Light, a sociology professor at the University of Wisconsin - Madison who led the study while at Purdue University in West Lafayette, Indiana. “Our study takes a step toward informing these debates with the available data, which says that as the prevalence of undocumented immigrants increases in society, the prevalence of drug and alcohol problems do not increase in tandem,” he said in a phone interview. “In fact, the data seem to suggest the opposite.” The study cites politicians’ claims about undocumented immigrants jeopardizing the health and safety of citizens starting in 2006, when an Iowa congressman claimed that 13 Americans died daily as a result of undocumented drunken drivers. During the 2016 presidential campaign, Senator Ted Cruz promised to build a border wall, which he said would end the nation’s drug epidemic, and President Donald Trump vowed to erect a wall to protect against “bad hombres.” “We think these conversations are too important to have in the absence of evidence,” Light said. “If you want to fight the opioid epidemic or reduce drunk driving, deporting undocumented immigrants residing in the U.S. is likely not going to be the most effective policy.” The number of undocumented immigrants living in the U.S. tripled from an estimated 3.5 million in 1990 to an estimated 10.9 million in 2014. At the same time, violent crime rates fell by half, giving pause to arguments that unlawful immigrants increase violent crime, Light said. Although his study links an increase in undocumented immigration with a decrease in drug and alcohol arrests, it does not establish a causal relationship between the two. But Alvarez said the new study supports previous evidence that immigrants tend to be law-abiding. “Although we don’t have as much research on undocumented immigrants as we would like to have, there is plenty of research showing that immigrants in general are less likely to abuse drugs and alcohol than native-born citizens,” she said in an email. Fear of police surveillance and deportation may deter undocumented immigrants from drinking and driving, or driving at all, Light and his co-authors write. Alvarez has studied drug and alcohol use among Latinos in the U.S. and has seen a phenomenon dubbed the “immigrant paradox” - immigrants living under stressful conditions in poor, crime-ridden communities are less likely to drink alcohol and do illegal drugs, she said. The “healthy immigrant thesis” or “Latino paradox” may explain the new study’s findings, Light said. “When you look at things we think of as predictive of criminal behavior and poor health outcomes - low levels of education, few economic assets, immigrants tend to be engaging in less crime and staying healthier than we would expect,” he said.

### AT: Rappaport

#### Perm do the aff and all non-mutually exclusive parts of the CP – we get benefits of exculpatory evidence, which solves both threshold charge and pretrial rights since it puts citizens in the best possible position regardless of whether plea bargaining exists or not.

#### Perm do the plan then the CP.

#### They say threshold charge:

1. Deportation may or may not result from a more severe crime, so this doesn’t solve the aff
2. Prosecutors will continue to pressure noncitizens into taking plea bargaining by creating a story about the threat of losing in trial

#### They say pretrial rights:

1. Pretrial rights exist in all instances except for plea bargaining, so the plan would eliminate the *need* for pretrial rights to be extended *to* plea bargaining in the first place.
2. Defendants will never be in as good a bargaining position as prosecutors.

### AT: Brentwood Mega

#### Perm do both or do the plan and all non-mutually exclusive parts of the CP – it’s just not competitive; we only eliminate plea bargains in instances where deportation is *offered* as part of the plea deal. Your own evidence says deportation is part of the *sentence*

#### Solves absolutely none of the case – you don’t solve for asylum seekers or the people affected by the plan.

### AT: Dougherty Valley Reform

#### Perm do the plan and all non-mutually exclusive part of the CP: that’s planks 2, 4, and 5

#### Guidelines non-unique – written plea agreements are happening in the squo; defendants sign away their rights

#### Critical rights non-unique – Padilla vs. Kentucky court case already provides a constitutional right to information about immigration consequences, but the aff is about deportations being offered as part of the plea bargain – not as the sentence. Stevens 10

Stevens, John Paul. “Padilla v. Kentucky, 559 U.S. 356 (2010).” Justia Law, Justia US Supreme Court, 31 Mar. 2010, supreme.justia.com/cases/federal/us/559/356/. John Paul Stevens is an American lawyer and jurist who served as an associate justice of the U.S. Supreme Court from 1975 until his retirement in 2010. //nhs-VA

Petitioner Padilla, a lawful permanent resident of the United States for over 40 years, faces deportation after pleading guilty to drug-distribution charges in Kentucky. In postconviction proceedings, he claims that his counsel not only failed to advise him of this consequence before he entered the plea, but also told him not to worry about deportation since he had lived in this country so long. He alleges that he would have gone to trial had he not received this incorrect advice. The Kentucky Supreme Court denied Padilla postconviction relief on the ground that the Sixth Amendment’s effective-assistance-of-counsel guarantee does not protect defendants from erroneous deportation advice because deportation is merely a “collateral” consequence of a conviction.

Held:Because counsel must inform a client whether his plea carries a risk of deportation, Padilla has sufficiently alleged that his counsel was constitutionally deficient. Whether he is entitled to relief depends on whether he has been prejudiced, a matter not addressed here. Pp. 2–18.

#### Judicial oversight – (a) triggers court clog: their ev says they need another judge to preside over the case as a “neutral party;” that kills an overly burdened judiciary (b) bargaining needs to “fall apart” first – their ev (c) racist judges exist – the plan precludes the possibility of deportation being on the bargaining table in the first place

#### Open-file discovery non-unique – Sessions mandates open disclosure of plea criteria with regards to immigration already

#### Plea discounts don’t matter – a) prosecutors concoct a story about how defendants will lose at trial b) the aff focuses on deportations when they are offered as part of the plea bargain

### AT: Plea Juries

#### Perm do the CP then the plan.

#### Plea juries are inexperienced and cause increased arbitration. Appleman 10

Appleman, Laura I. (2010) "The Plea Jury," Indiana Law Journal: Vol. 85: Iss. 3, Article 1. Available at: http://www.repository.law.indiana.edu/ilj/vol85/iss3/1. //nhs-VA

2. Inexperience Incorporating the public into a guilty plea raises some questions about how the plea jury will determine issues during the plea process. Obviously, the plea jury must pass on whether the proposed guilty plea is acceptable, but what does that mean? For example, would this result in plea juries, ignorant of typical police practices and charging decisions, questioning every decision made in prosecuting the defendant? Moreover, what might a randomly selected plea jury know about proper sentencing, or how best to treat, for example, a third-time minor offender? As the argument goes, having inexperienced lay people involved in sophisticated legal processes will result in great difficulties in determining complex issues, such as weighing offender status, understanding the machinations of prosecutor and defense-counsel bargaining, and determining the proper balance of sentence and postrelease supervision. Although these are valid concerns, some of them may be alleviated by looking to the effect of modem sentencing laws on trials, which permit sentencing juries to determine the specific punishment imposed on the defendant. Since we assume that the average jury is capable of determining the correct sentence in sentencing hearings (within ranges, as in most states and federal guidelines), then surely the same can be granted to a plea jury. Moreover, the objection that citizens are particularly unqualified to determine individual sentences seems weak, considering that many modem policies are driven by politics and public opinion, not expert criminology.254 If sentencing policies are being determined by media, legislatures, public sentiment, and popular initiatives-and not by experts-then having a plea jury consider whether a sentence is correct for a particular defendant does not seem to deviate from the status quo. The average citizen is no more or less qualified to decide on sentencing than any decision maker in our current system. 3. Inconsistency Likewise, there may be concerns that having plea juries scrutinize bargained offenses and sentences might lead to serious inconsistencies between similar defendants. As this argument goes, judges-with their experience and their great familiarity with different types of offenders-are simply more effective at equalizing sentences between and among defendants who plead guilty. The reality of our criminal justice system and sentencing regime, however, makes this argument much less potent. First, most states have stringent sentencing guidelines which severely limit the sentence that any judge may grant or prosecutor may recommend, upwards or downwards. Similarly, the federal sentencing guidelines, although technically voluntary, are followed by federal judges the vast majority of the time. Additionally, the tough sentencing laws enacted by most states end up transferring power and discretion from the courts to the prosecutors, resulting in less transparency-but not necessarily less disparity-in outcomes for similar cases, both within and between districts. 255 Moreover, as Bibas cogently argues, there is only so much any one trial court can do to equalize convictions and sentences among and between defendants: "Individual trial judges are limited by the confines of particular cases and controversies. They are not well-suited to take the synoptic, bird's-eye view needed to police systemic concerns about equality, arbitrariness, leniency, and overcharging. ''256 Consequently, in the average court-run guilty plea, inconsistency and disparity of outcomes are simply better hidden than that which might occur with a plea jury. If nothing else, the use of the plea jury would illuminate the more secret machinations of prosecutors. Additionally, prosecutors do not always keep to the promised sentence in a plea agreement. On January 14, 2009, the Supreme Court heard oral arguments in Puckett v. United States,257 which addressed whether forfeited claims that the government breached a plea agreement were subject to "plain error" review. Although the issue at the Court primarily involved standards of appellate review, the facts of Puckett are not uncommon. In Puckett, a federal prosecutor changed the government's promised sentence after the acceptance of the guilty plea but before sentencing, opposing a sentence reduction for acceptance of responsibility.258 These issues often arise in federal plea bargains, where there is usually a time lapse between the defendant's allocution and the actual sentencing. 2 59 As Douglas Berman has pointed out, lower courts frequently struggle with various practical questions in the wake of prosecutorial failure at sentencing to comply with plea promises.260 Therefore, prosecutors who continually make decisions in the guilty plea procedure do not provide perfect consistency and reliability. There is no reason to think a lay plea jury would prove any less consistent or reliable in practice. In fact, the lay public makes decisions with greater consistency than currently acknowledged. A variety of recent studies have illustrated that there is a significant degree of agreement among laymen in the ranking of crimes and punishment in terms of the relative seriousness of crimes. 26 ' When based on a system of proportionality and expressive retribution-as has been encouraged by the Court-the community's understanding ofjustice is both wide-ranging and sensitive to subtle factors. "Virtually without exception, citizens seem able to assign highly specific sentences for highly specific events." 262 There is no reason to assume that modem lay plea juries could not achieve a strong level of consistency between and among guilty pleas, as the community usually has broadly shared intuitions about the relative blameworthiness of different cases.263

#### Lack of diversity means more convictions. Hartsoe 12

Hartsoe, Steve. “Study: All-White Jury Pools Convict Black Defendants 16 Percent More Often Than Whites.” Duke Today, 17 Apr. 2012, today.duke.edu/2012/04/jurystudy.Senior author Patrick Bayer, chairman of Duke's Economics Department. Other researchers for the study, "The Impact of Jury Race in Criminal Trials," were Shamena Anwar, an assistant professor of economics and public policy at Carnegie Mellon University, and Randi Hjalmarsson, an associate professor of economics at Queen Mary, University of London.

Juries formed from all-white jury pools in Florida convicted black defendants 16 percent more often than white defendants, a gap that was nearly eliminated when at least one member of the jury pool was black, according to a Duke University-led study. The researchers examined more than 700 non-capital felony criminal cases in Sarasota and Lake counties from 2000-2010 and looked at the effects of the age, race and gender of jury pools on conviction rates. The jury pool typically consisted of 27 members selected from eligible residents in the two counties. From this group, attorneys chose six seated jurors plus alternates. "I think this is the first strong and convincing evidence that the racial composition of the jury pool actually has a major effect on trial outcomes," said senior author Patrick Bayer, chairman of Duke's Economics Department. "Our Sixth Amendment right to a trial by a fair and impartial jury of our peers is a bedrock of the criminal justice system in the U.S., and yet, despite the importance of that right, there's been very little systematic analysis of how the composition of juries actually affects trial outcomes, how the rules that we have in place for selecting juries impact those outcomes," Bayer said. The study, posted Tuesday on the Quarterly Journal of Economics (http://www.oxfordjournals.org/page/4595/1), focused on how conviction rates varied with the composition of the jury pool, which is randomly determined by which eligible residents are called for jury duty that day. "The idea is to treat the jury pool as a natural experiment -- some defendants randomly draw a jury pool that includes some black members while others face a jury seated from an all-white jury pool," Bayer said. Among the key findings:-- In cases with no blacks in the jury pool, blacks were convicted 81 percent of the time, and whites were convicted 66 percent of the time. The estimated difference in conviction rates rises to 16 percent when the authors controlled for the age and gender of the jury and the year and county in which the trial took place. -- When the jury pool included at least one black person, the conviction rates were nearly identical: 71 percent for black defendants, 73 percent for whites. -- About 40 percent of the jury pools they examined had no black members and most of the others had one or two black members. -- When blacks were in the jury pool, they were slightly more likely to be seated on a jury than whites. The eligible jury population in these counties was less than 5 percent black. Bayer said they chose data from Sarasota and Lake counties because these jurisdictions provide more detailed information from court trials than do most other jurisdictions throughout the country. The researchers said they wanted to know how the racial make-up of a jury pool affects the outcome of a trial because existing empirical literature on the subject was "sparse" and subject to a number of limitations. They also cited anecdotal evidence from trials that has raised questions about fairness, and noted the proportion of incarcerated blacks is almost four times the proportion of blacks in the general population. Studies based on experimental evidence from "mock" trials are limited in part because the stakes are far lower than for real trials, they said. Studies that examine the correlation of a seated jury's race and related trial results are problematic because seated jurors are not selected at random from a set of people on the jury pool, they said. In most criminal trials in the United States, prosecutors and defense attorneys can exclude potential jurors without explanation through a process called peremptory challenge. So even if the initial jury pool is randomly drawn, the nature of the charges, the evidence and the attributes of the defendant can all influence the composition of the seated jury. Excluding potential jurors based on race is illegal; Bayer said the data they examined did not show any misconduct by attorneys. The findings imply that the application of criminal justice is "highly uneven," Bayer said, because conviction rates vary substantially with random variation in the racial composition of the jury pool. "Simply put, the luck of the draw on the racial composition of the jury pool has a lot to do with whether someone is convicted and that raises obvious concerns about the fairness of our criminal justice system," Bayer said. "I think our study points to the need for a lot more analysis, and a lot more transparency in collecting data and analyzing it in jurisdictions throughout the country," Bayer said.

## Ks

### Framework (1:00)

#### The ROB is to vote for the debater that presents the most desirable policy option

#### Fairness—alternate frameworks moot 6 minutes of the 1ac – it’s the only basis for aff offense – that means we should get to weigh our impacts. Turns the K because it means we can’t properly engage.

#### // The alt is vague – it’s a voting issue--Spikes out of our offense – no way for aff to win and skews 1AR time--Damage is done – 2NR clarification rewards them because we’ll always be behind.

#### // If the alt solves it’s utopian – that’s a voter – impossible to research, not reciprocal, and skews side bias neg

#### // Floating PIKs are a voter, steal the aff and kill clash, which is the key internal link to both fairness and education

#### b) Decision-making – debate should develop our ability to weigh the consequences of our actions – it’s the only portable skill

#### c) Considering policy implications is key to effective theory

Feaver 01 (Peter, Asst. Prof of Political Science at Duke University, Twenty-First Century Weapons Proliferation, p 178)

At the same time, virtually all good theory has implications for policy. Indeed, if no conceivable extension of the theory leads to insights that would aid those working in the ‘real world’, what can be ‘good’ about good theory? Ignoring the policy implications of theory is often a sign of intellectual laziness on the part of the theorist. It is hard work to learn about the policy world and to make the connections from theory to policy. Often, the skill sets do not transfer easily from one domain to another, so a formidable theorist can show embarrassing naivete when it comes to the policy domain he or she putatively studies. Often, when the policy implications are considered, flaws in the theory (or at least in the presentation of the theory) are uncovered. Thus, focusing attention on policy implications should lead to better theorizing. The gap between theory and policy is more rhetoric than reality. But rhetoric can create a reality–or at least create an undesirable kind of reality–where policy makers make policy though ignorant of the problems that good theory would expose, while theorists spin arcana without a view to producing something that matters. It is therefore incumbent on those of us who study proliferation–a topic that raises interesting and important questions for both policy and theory–to bring the communities together. Happily, the best work in the proliferation field already does so.

#### The government has flawed components but challenging our understanding of government is important and valuable through discussion of federal policies--- learning the language of that allows us to confront and challenge those institutions outside of this round and resolves a lot of the impacts at the root of their explanation

**Hoppe 99** Robert Hoppe is Professor of Policy and knowledge in the Faculty of Management and Governance at Twente University, the Netherlands. "Argumentative Turn" Science and Public Policy, volume 26, number 3, June 1999, pages 201–210 works.bepress.com

ACCORDING TO LASSWELL (1971), policy science is about the production and application of knowledge of and in policy. Policy-makers who desire to tackle problems on the political agenda successfully, should be able to mobilise the best available knowledge. This requires high-quality knowledge in policy. Policy-makers and, in a democracy, citizens, also need to know how policy processes really evolve. This demands precise knowledge of policy. There is an obvious link between the two: the more and better the knowledge of policy, the easier it is to mobilise knowledge in policy. Lasswell expresses this interdependence by defining the policy scientist's operational task as eliciting the maximum rational judgement of all those involved in policy-making. For the applied policy scientist or policy analyst this implies the development of two skills. First, for the sake of mobilising the best available knowledge in policy, he/she should be able to mediate between different scientific disciplines. Second, to optimise the interdependence between science in and of policy, she/he should be able to mediate between science and politics. Hence Dunn's (1994, page 84) formal definition of policy analysis as an applied social science discipline that uses multiple research methods in a context of argumentation, public debate [and political struggle] to create, evaluate critically, and communicate policy-relevant knowledge. Historically, the differentiation and successful institutionalisation of policy science can be interpreted as the spread of the functions of knowledge organisation, storage, dissemination and application in the knowledge system (Dunn and Holzner, 1988; van de Graaf and Hoppe, 1989, page 29). Moreover, this scientification of hitherto 'unscientised' functions, by including science of policy explicitly, aimed to gear them to the political system. In that sense, Lerner and Lasswell's (1951) call for policy sciences anticipated, and probably helped bring about, the scientification of politics. Peter Weingart (1999) sees the development of the science-policy nexus as a dialectical process of the scientification of politics/policy and the politicisation of science. Numerous studies of political controversies indeed show that science advisors behave like any other self-interested actor (Nelkin, 1995). Yet science somehow managed to maintain its functional cognitive authority in politics. This may be because of its changing shape, which has been characterised as the emergence of a post-parliamentary and post-national network democracy (Andersen and Burns, 1996, pages 227-251). National political developments are put in the background by ideas about uncontrollable, but apparently inevitable, international developments; in Europe, national state authority and power in public policy-making is leaking away to a new political and administrative elite, situated in the institutional ensemble of the European Union. National representation is in the hands of political parties which no longer control ideological debate. The authority and policy-making power of national governments is also leaking away towards increasingly powerful policy-issue networks, dominated by functional representation by interest groups and practical experts. In this situation, public debate has become even more fragile than it was. It has become diluted by the predominance of purely pragmatic, managerial and administrative argument, and under-articulated as a result of an explosion of new political schemata that crowd out the more conventional ideologies. The new schemata do feed on the ideologies; but in larger part they consist of a random and unarticulated 'mish-mash' of attitudes and images derived from ethnic, local-cultural, professional, religious, social movement and personal political experiences. The market-place of political ideas and arguments is thriving; but on the other hand, politicians and citizens are at a loss to judge its nature and quality. Neither political parties, nor public officials, interest groups, nor social movements and citizen groups, nor even the public media show any inclination, let alone competency, in ordering this inchoate field. In such conditions, scientific debate provides a much needed minimal amount of order and articulation of concepts, arguments and ideas. Although frequently more in rhetoric than substance, reference to scientific 'validation' does provide politicians, public officials and citizens alike with some sort of compass in an ideological universe in disarray. For policy analysis to have any political impact under such conditions, it should be able somehow to continue 'speaking truth' to political elites who are ideologically uprooted, but cling to power; to the elites of administrators, managers, professionals and experts who vie for power in the jungle of organisations populating the functional policy domains of post-parliamentary democracy; and to a broader audience of an ideologically disoriented and politically disenchanted citizenry.

### AT: Agamben

#### Perm do both – protecting noncitizens from deportation is a method of using the law in a non violent way

Deranty 2004

[Jean-Philippe, Macquarie University, “Agamben’s challenge to normative theories of modern rights,” borderlands e-journal, Vol. 3, No. 1, www.borderlandsejournal.adelaide.edu.au/vol3no1\_2004/deranty\_agambnschall.htm, acc 1-7-05//uwyo-ajl]

29. The problem with this strategic use of the decisionistic tradition is that it does not do justice to the complex relationship that these authors establish between violence and normativity, that is, in the end the very normative nature of their theories. In brief, they are not saying that all law is violent, in essence or in its core, rather that law is dependent upon a form of violence for its foundation. Violence can found the law, without the law itself being violent. In Hobbes, the social contract, despite the absolute nature of the sovereign it creates, also enables individual rights to flourish on the basis of the inalienable right to life (see Barret-Kriegel 2003: 86). 30. In Schmitt, the decision over the exception is indeed "more interesting than the regular case", but only because it makes the regular case possible. The "normal situation" matters more than the power to create it since it is its end (Schmitt 1985: 13). What Schmitt has in mind is not the indistinction between fact and law, or their intimate cohesion, to wit, their secrete indistinguishability, but the origin of the law, in the name of the law. This explains why the primacy given by Schmitt to the decision is accompanied by the recognition of popular sovereignty, since the decision is only the expression of an organic community. Decisionism for Schmitt is only a way of asserting the political value of the community as homogeneous whole, against liberal parliamentarianism. Also, the evolution of Schmitt’s thought is marked by the retreat of the decisionistic element, in favour of a strong form of institutionalism. This is because, if indeed the juridical order is totally dependent on the sovereign decision, then the latter can revoke it at any moment. Decisionism, as a theory about the origin of the law, leads to its own contradiction unless it is reintegrated in a theory of institutions (Kervégan 1992). 31. In other words, Agamben sees these authors as establishing a circularity of law and violence, when they want to emphasise the extra-juridical origin of the law, for the law’s sake Equally, Savigny’s polemic against rationalism in legal theory, against Thibaut and his philosophical ally Hegel, does not amount to a recognition of the capture of life by the law, but aims at grounding the legal order in the very life of a people (Agamben 1998: 27). For Agamben, it seems, the origin and the essence of the law are synonymous, whereas the authors he relies on thought rather that the two were fundamentally different. 32. Agamben obviously knows all this. He argues that it is precisely this inability of the decisionists to hold on to their key insight, the anomic core of norms, which gives them the sad distinction of accurately describing an evil order. But this reading does not meet the objection to his problematic use of that tradition.

### AT: Capitalism

#### Perm do both – use the plan as a method to deconstruct the incongruous logic of capital that deports immigrants despite them being potentially valuable to the economy.

#### Turn – deportations are a tool used by the prison-industrial complex. The aff breaks away from that mode of labor control. Robinson 13

Robinson, William I. “The New Global Capitalism and the War on Immigrants.” Truthout, 13 Sept. 2013, www.truth-out.org/news/item/18623-the-new-global-capitalism-and-the-war-on-immigrants. William I. Robinson is professor of sociology, global studies and Latin American studies at the University of California at Santa Barbara. //nhs-VA

These transnational immigrant labor flows are a mechanism that has replaced colonialism in the mobilization around the world of labor pools, often drawn from ethnically and racially oppressed groups. States assume a gatekeeper function to regulate the flow of labor for the capitalist economy. For example, US immigration enforcement agencies, as do their counterparts around the world, undertake "revolving-door" practices - opening and shutting the flow of immigration in accordance with needs of capital accumulation during distinct periods. Immigrants are sucked up when their labor is needed and then spit out when they become superfluous or potentially destabilizing to the system. During the 1980s, 8 million Latin American emigrants arrived in the United States as globalization induced a wave of outmigration. This was nearly equal to the total figure of European immigrants who arrived on US shores during the first decades of the 20th century and made Latin America the principal origin of migration into the United States. Some 36 million immigrant workers were in the United States in 2010, at least 20 million of them from Latin America, some 11 million of which are undocumented. The US economy has become increasingly dependent on immigrant labor. Although immigrant labor sustains US and Canadian agriculture, by the 1990s the majority of Latino/a immigrants were absorbed by industry, construction and services as part of a general "Latinization" of the economy. Latino immigrants have massively swelled the lower rungs of the US workforce. They provide almost all of the farm labor and much of the labor for hotels, restaurants, construction, janitorial and house cleaning, child care, domestic service, gardening and landscaping, hairdressing, delivery, meat and poultry packing, food processing, light manufacturing, retail and so on. This dependence of the United States and the global economy on immigrant labor, presents a contradictory situation. From the viewpoint of the dominant groups, the dilemma is how to super-exploit an immigrant labor force, such as Latinos in the United States, yet how to simultaneously assure it is super controllable and super-controlled. The state must play a balancing act by finding a formula for a stable supply of cheap labor to employers, and at the same time, a viable system of state control over immigrants. The push in the United States and elsewhere has been toward heightened criminalization of immigrant communities, the militarized control of these communities, and the establishment of an immigrant detention and deportation complex. New Axis of Inequality Worldwide As borders have come down for capital and goods, they have been reinforced for human beings. While global capitalism creates immigrant workers, these workers do not enjoy citizenship rights in their host countries. Stripped either de facto or de jure of the political, civic and labor rights afforded to citizens, immigrant workers are forced into the underground, made vulnerable to employers, whether large private or state employers or affluent families, and subject to hostile cultural and ideological environments. The super-exploitation of an immigrant workforce would not be possible if that workforce had the same rights as citizens, if it did not face the insecurities and vulnerabilities of being undocumented or "illegal." Granting full citizenship rights to the tens of millions of immigrants in the United States would undermine the division of the United States - and by extension, the global - working class into immigrants and citizens. That division is a central component of the new class relations of global capitalism, predicated on a "flexible" mass of workers who can be hired and fired at will, are de-unionized, and face precarious work conditions, job instability, a rollback of benefits and downward pressure on wages. Immigrant workers are not only flexible, but are disposable through deportation, and therefore, controllable. The condition of deportable must be created and then reproduced - periodically refreshed with new waves of "illegal" immigrants - since that condition assures the ability to super-exploit with impunity and to dispose of without consequence, should this labor become unruly or unnecessary. Driving immigrant labor underground and absolving the state and employers of any commitment to the social reproduction of this labor allows for its maximum exploitation, together with its disposal, when necessary. The punitive features of immigration policy in the United States in recent decades have been combined with reforms to federal welfare law that denied immigrants - documented or not - access to such social wages as unemployment insurance, food stamps and certain welfare benefits. In this way, the immigrant labor force becomes responsible for its own maintenance and reproduction and also - through remittances - for family members abroad. This makes immigrant labor low cost and flexible for capital *and also* costless for the state compared to native-born labor. Immigrant workers become the archetype of these new global class relations; *the quintessential workforce of global capitalism*. Hence, sustaining a reserve army of immigrant labor involves reproducing the division of workers into immigrants and citizens, which requires contradictory practices on the part of states. The state must lift national borders for capital but must reinforce these same national boundaries in its immigrant policies, and in its ideological activities, it must generate a nationalist hysteria by propagating such images as "out-of-control borders" and "invasions of illegal immigrants." In sum, the division of the global working class into citizen and immigrant is a major new axis of inequality worldwide. Borders and nationality are used by transnational capital, the powerful and the privileged, to sustain new methods of control and domination over the global working class. The Immigrant Military-Prison-Industrial-Detention Complex There is a broad social and political base, therefore, for the maintenance of a flexible, super-controlled and super-exploited Latino immigrant workforce. The system cannot function without it. But immigrant labor is extremely profitable for the corporate economy in double sense. First, it is labor that is highly vulnerable, forced to exist semi-underground, and deportable, and therefore super-exploitable. Second, the criminalization of undocumented immigrants and the militarization of their control not only reproduce these conditions of vulnerability, but also in themselves, generate vast new opportunities for profit-making. The immigrant military-prison-industrial-detention complex is one of the fastest growing sectors of the US economy. There has been a boom in new private prison construction to house immigrants detained during deportation proceedings. In 2007, nearly one million undocumented immigrants were apprehended and 311,000 deported. The Obama administration presents itself as a friend of Latinos (and immigrants more generally), yet Obama has deported more immigrants than any other president in the past half a century - some 400,000 per year since he took office in 2009. The private immigrant detention complex is a boom industry. Undocumented immigrants constitute the fastest growing sector of the US prison population and are detained in private detention centers and deported by private companies contracted out by the United States. As of 2010, there were 270 immigration detention centers that caged on any given day over 30,000 immigrants. Since detainment facilities and deportation logistics are subcontracted to private companies, capital has a vested interest in the criminalization of immigrants and in the militarization of control over immigrants - and more broadly, therefore, a vested interest in contributing to the neofascist, anti-immigrant movement.

#### Double-bind: if the alt can’t overcome the aff then it can’t beat cap, but if it can beat cap it should overcome the aff.

### AT: Afropessimism

### AT: CLS