Rely on prosecuting the US or holding the US accountable to ilaw

Pull out of treaties

The ICC structurally is unable to address international issues. A.

Burns '22 [Sarah Burns; She is a Moderator of the International Law Society's International Law and Policy Brief (ILPB) and a J.D. candidate at The George Washington University Law School. She has a bachelor's degree in International Studies and Spanish from the University of Miami. Prior to attending law school, Sarah worked for the Global Partnership for Sustainable Development Data at the United Nations Foundation; The International Criminal Court: Obstacles Hindering the Full Potential of International Justice, 4-4-2022; International Law and Policy Brief, https://studentbriefs.law.gwu.edu/ilpb/2022/04/04/the-international-criminal-court-obstacles-hindering-the-full-potential-of-international-justice/; accessed, 2-14-2025] itang

African Bias? Since the establishment of the Court, it has received allegations of crimes from over 139 countries via State Party and UN Security Council referrals. Despite this high number, the Office of the Prosecutor has opened cases in only 15: the Democratic Republic of the Congo, Uganda, Darfur (Sudan), Central African Republic, Kenya, Libya, Côte D'Ivoire, Mali, Georgia, Burundi, Palestine, Bangladesh/Myanmar, Afghanistan, the Philippines, and Venezuela. With a large majority of the aforementioned cases stemming from Africa, the Court has faced severe criticism for holding an African bias and is claimed to be a "colonial institution." Within these cases, over 40 individuals have been indicted—all from African countries. As Mia Swart from the Brookings Doha Center writes, "at the center of this debate is the ICC's nearly exclusive focus on African countries until very, very recently." After severe criticisms of the ICC from the African Union piled on, in 2011 the Court appointed Fatou Bensouda, a Gambian native and former legal adviser at the International Criminal Tribunal for Rwanda, as the new chief prosecutor. Many credit her with broadening the narrow focus on African leaders over her nine year term. In 2021, she was succeeded by Karim Khan, a British lawyer and former Assistant Secretary-General of the United Nations. Although the claims of African bias have largely been rebutted by the Court, many feel that the sentiment of bigotry towards African nations has been well established. Due to the voluntary nature of participation in ratifying the Rome Statute, this sense of bias has the potential to discourage both full participation and additional ratification from African states that are non-parties to the Rome Statute, straining the reputation of and thus weakening the efficacy of the Court. Debilitating Veto Powers In addition to the effects of the alleged African bias, the **efficacy of the ICC is hampered by veto** powers **of the UNS**ecurity **C**ouncil. While technically considered an independent legal court, the Security Council has certain special powers in the ICC's process. For example, the Security Council may refer a situation to the ICC, essentially permitting the Security Council to have say over which cases shall be investigated. This is an extremely controversial power, particularly considering the Security Council **includes** three **countries that are n**o**t** endorsed **signatories to the Rome Statute: the U**nited **S**tates, **Russia, and China.** Many lament the fact that these countries have unjust influence, pointing to Russia and China's veto power preventing the Council from referring the situation in Syria to the ICC as a devastating example. The power of referral is coupled by the Security Council's **ability to suspend any investigation** for a time period of one year—the power of deferral. Many argue this power is another way that certain world powers (i.e., the United States, China, and Russia) may **abuse the system to defer** any situation they wish **for ulterior motives**, such as prioritizing bilateral relationships with countries who lack the veto power. "Transnational Justice" The potential of **the ICC** is plagued with criticisms that international law and the concept of "transnational justice" **cannot account for** deeply rooted **cultural and historical differences in countries** that have experienced systematic and wide-spread human rights violations. Mia Swart argues it is "uncontroversial that **i**nternational **law has been shaped by** colonialism and **imperialism**." The fact that the ICC has only ever convicted nine people lends support to the argument that the intricacies of local government compounded by cultural and historical complexities ultimately inhibits the very concept of international justice. This argument is illustrated in the case of the Khmer Rouge in Cambodia. From 1975 to 1979, Cambodians experienced a genocide under the Pol Pot regime that took the lives of more than a quarter of the population. Conditions at a detention center called S-21 were so atrocious that it is estimated only 7 of 20,000 prisoners survived. Despite the end of the genocide after Vietnamese invasion in 1979, Pol Pot died in 1998 and never was tried for his violations against humanity. In 2006, at the request of the Royal Cambodian Government, the UN spearheaded the creation of the Extraordinary Chambers in the Courts of Cambodia (ECCC) to try and convict the surviving prominent perpetrators of the mass genocide throughout Cambodia. The trials, "touted as the largest reckoning since the Nuremberg trials" were held in Cambodia with a combination of both international and national Cambodian judges. From its inception, these trials were plagued with criticism. The new Cambodian government (the Cambodian People's Party) accused the UN of using the trials as a means to oust the newly elected party, while the international community harshly criticized the reports of corruption within the process. Criticisms were fueled by the more than 200 million dollar price tag of the trials, with only one conviction delivered. Many say that the failures stem from the inability of the UN to fully understand the nuance of what really happened in Cambodia. An American human rights lawyer whose own parents were killed by the Khmer Rouge stated "This is no longer a legitimate court…It's a sham. It does such a disservice to Cambodian victims and international justice in general." The massive criticisms of the UN and the ECCC have led many to

believe that the potential of the ICC is hindered by its inability to account for cultural, historical, and political differences of countries that have experienced mass trauma. During the Cambodian genocide, the lines between murderer and victim became blurred, and the CPP government that remained in power throughout the trials was itself riddled with problems and inefficiencies. Critics state that **the vague** and general **sweeping ideals of justice that the ICC holds renders it ineffective because it cannot** account for the intricacy of cultural differences globally. This inability to **create a cohesive ideal of** international **justice** has been, and will continue to be, a source of weakness within the Court.

B.

Perry '24 [Dan Perry and Chris Stephen; former chief editor of the Associated Press in Europe, Africa and the Middle East; war correspondent, author of *The Future of War Crimes Justice*; The Hill, "The ICC's Israel arrest warrants have backfired," https://thehill.com/opinion/international/5044761-icc-arrest-warrants-israel-backfire/amp/, accessed 2-11-2025] recut Aaron

Central to the crisis is the **little-understood Article 98** of the court's founding statute, which provides **member states** with the ability to grant **immunity** to officials from **other nations**. Intended to balance state sovereignty with international justice, it means the member states have a **painless way** of granting the **arrest immunity** America will shortly be **demanding**, simply by lodging an **Article 98 declaration**.

France has already taken advantage of this loophole, declaring that, while it adheres to its ICC obligations, it is also giving Israelis immunity. Italy, Hungary and Greece have followed suit, and more countries, including Austria, Australia, Argentina, the Czech Republic and the Netherlands are considering it.

The tactics, which may now shield **Netanyahu**, were honed **two decades ago** by the United States to protect its **own officials** from **ICC prosecution**.

In 2002, as the ICC opened its doors, the Bush administration demanded Article 98 immunities for American personnel, threatening aid cuts to noncompliant countries. Defense Secretary Donald Rumsfeld even threatened to move NATO's headquarters out of Brussels unless Belgium gave war crimes immunity for U.S. personnel stationed there.

The Nethercutt Amendment formalized these threats, and dozens of states acquiesced, granting the U.S. sweeping protections.

The European Union also capitulated, granting limited immunity to U.S. personnel stationed in Europe.

With Trump almost certain to sign **Graham's legislation**, **U.S. allies** know they will face the prospect of **economic sanctions**, coupled with the **withdrawal** of **military cooperation** unless they give **Israel immunity**. Across the chanceries of Europe, the fear is that if they **don't cooperate**, it may speed Trump in **decoupling** America from **NATO**.

2. The UK empirically proves it's possible – big, developed countries just circumvent.

Rowe 21 [Emily Rowe, Teaching Assistant to Professor Joshua Nichols for Constitutional Law @ McGill University – Faculty of Law, "The ICC-African Relationship: More Complex Than a Simplistic Dichotomy," 11/05/2021, FLUX: International Relations Review, https://fluxirr.mcgill.ca/article/view/75, Accessed 02/07/2025] // cady

The Principle of Complementarity: Developed States

While it is relatively easy to label developing states as 'unable' or 'unwilling' according to the criteria stipulated in the Statute, it is much more difficult to **demonstrate that developed states** that have signed on to the Rome Statute are **'unable'** or

'**unwilling'**, for they are often **affluent and democratic**. Therefore, **developed countries** are often able to **evade ICC investigation** because they can **afford to locate** and **obtain the accused**, fund the **investigation**, as well as 'guarantee' an **independent, impartial, timely trial** at home (Vinjamuri 2016). As Canadian Ambassador Paul Heinbecker (2003) stated, "The ICC was not **designed** for the United States, Canada, European states or other **developed countries** because these are **well-functioning democracies** with strong judiciaries; the ICC is **instead designed specifically** for the weak states of the world." This **procedural advantage** of affluent **developed countries** is visible in the proceedings of the 2006 **investigation** into the United Kingdom's(UK) military officers' actions during the Iraq conflict and occupation from 2003 to 2008. The UK military officers were **accused of unlawful murder**, torture, and other forms of ill-treatment that are considered war crimes under **international humanitarian law** (Davies, Gareth, and Nicholls 2019). As a **developed, affluent, and democratic** country, the UK was able to effectively demonstrate a willingness and an ability to investigate and prosecute the accused. As stated in the executive summary of the ICC's Final Report on the situation in Iraq/UK, "having exhausted reasonable lines of enquiry arising from the information available, the Office has determined that the only appropriate decision is to close the preliminary examination without seeking authorisation to initiate an investigation" (International Criminal Court 2020d, 4). Nevertheless, an ICC investigation would have been warranted, if not for the UK's privilege to establish its own independent judicial body to investigate the alleged crimes, **prevent**ing the ICC **jurisdiction** to continue their **investigation** by opening an official case (Davies, Gareth, and Nicholls 2019). Not only did the ICC previously assert that there exists credible evidence that British troops committed war crimes in Iraq, but an investigation by BBC Panorama and the Sunday Times also discovered damning evidence of war crimes from the personal statements of the Iraq Historic Allegations Team (IHAT), which was composed of British soldiers and army staff (BBC News 2019). The closure of the case against the UK military officials serves as a **clear example of the ability** of the ICC's legal framework to **advantage developed states** and **disadvantage developing countries**.

Following the conclusion of the ICC's preliminary examination on February 9, 2006, the UK proceeded with an independent investigation by the IHAT set up by the Labour government in 2010 to investigate credible claims of abuses in Iraq and secure criminal prosecutions where appropriate (Shackle 2018). Over the following years, IHAT referred a few cases to the independent Service Prosecuting Authority (SPA) for prosecution; nevertheless, the SPA declined to prosecute in each instance because the cases failed to meet the evidential test or the public and service interest component of the 'full code test' (International Criminal Court 2020d, 6). By February 2017, the UK government had shut down IHAT, as its investigations had developed into a national scandal over their failure to secure a single prosecution, despite the ICC asserting "there is a reasonable basis to believe that, in the incidents which form the basis of the Office's findings, the Iraqi detainees concerned were subjected to torture, cruel treatment or outrages against personal dignity, and in some cases willful killing" (6).

To this day,the UK has yet to be held **legally accountable** for its military's war crimes, **demonstrating** the **ability** for **affluent developed countries** to not only **circumvent ICC investigation** but then evade **prosecution and accountability** domestically. Wealth in and of itself should not render a state immune from ICC prosecution. It is evident that the principle of **complementarity** allowsthe definitions of 'unable' and 'unwilling'to **advantage** developed, often **democratic states**, simply because the state's wealth meets a standard that indicates an ability to administer justice. As a result, **developed countries** can evade Court investigation, while African states are rendered easy targets for ICC investigation. This disproportionate outcome as a result of the principle of complementarity demonstrates that the ICC's legal framework is predisposed towards selectivity bias against developing states. It is important to add that almost ten years later, the ICC did re-open the preliminary examination of the war crimes of UK officers in the Iraqi conflict due to new evidence, though the Prosecutor has not yet moved forward with indictments (International Criminal Court 2020f).

2NC---AT: Cyber

1. They claim offensive cyber is neglecting defense but

Ribeiro '24 which postdates [Anna Ribeiro, 3-14-2024, US Federal Budget for FY 2025 boosts cybersecurity investments amid escalating threats, Industrial Cyber, https://industrialcyber.co/critical-infrastructure/us-federal-budget-for-fy-2025-boosts-cybersecurity-investments-amid-escalating-threats/, accessed 7-13-2024] // BZ recut Aaron

The U.S. Federal Budget for Fiscal Year 2025 announced this week that it **continues** to invest in cybersecurity

programs to protect the nation from malicious cyber actors and cyber campaigns. These **investments** work on countering emerging cyber threats, enhancing federal cybersecurity measures,safeguarding **federal cyberspace** and **critical infrastructure**, and ensuring **robust disaster resilience**,**response, and recovery mechanisms.** The Budget will expand the Department of Justice's (DOJ) ability to pursue cyber threats through investments in the FBI's cyber and counterintelligence investigative capabilities. These investments sustain the FBI's cyber intelligence, counterintelligence, and analysis capabilities and include an additional US$25 million to enhance those cyber response capabilities. Additionally, the Federal Budget includes $5 million to expand a new section within the DOJ's National Security Division to focus on cyber threats. These investments align with the National Cybersecurity Strategy that emphasizes a 'whole-of-nation' approach to addressing ongoing cyber threats. The Budget also provides $2 million for DOJ to support the implementation of Executive Order 14110, addressing 'Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence.' To protect against foreign adversaries and safeguard Federal systems, the Budget bolsters cybersecurity by ensuring every agency increases public service security. The Budget provides $13 billion in cybersecurity funding across civilian departments and agencies to advance the Administration's commitment to making cyberspace more resilient and defensible. In addition, the Federal Budget provides an additional $103 million for the Cybersecurity and Infrastructure Security Agency (**CISA**), for a total of **$3 billion to advance** the Administration's **commitment** to **making cyberspace more resilient and defensible**. This includes $470 million to deploy federal network tools, including endpoint detection and response capabilities; $394 million for CISA's internal cybersecurity and analytical capabilities; $41 million for critical infrastructure security coordination and $116 million for critical infrastructure cyber event reporting. The Budget allocates $455 million to expand the boundaries of artificial intelligence (AI) in the fields of science and technology, while also enhancing its safety, security, and resilience. This funding bolsters the Department's computational abilities and aids in the creation of AI testbeds. These testbeds are designed to develop foundational models for energy security, national security, and climate resilience. They also provide tools for **assessing** AI's potential to generate outputs that could pose **threats or hazards related to nuclear, nonproliferation, biological, chemical, critical infrastructure, and energy security.** Additionally, the budget supports ongoing efforts to train new researchers from diverse backgrounds, addressing the growing demand for AI expertise.

2. No cyberattacks or escalation.

Nye '19 [Dr. Joseph S. Nye Jr.; October 2nd; University Distinguished Service Professor and Former Dean of the John F. Kennedy School of Government at Harvard University, fellow of the American Academy of Arts & Sciences, Ph.D. in Political Science from Harvard University, B.A. from Princeton University; "Can Cyberwarfare be Regulated?"; Project Syndicate; https://www.project-syndicate.org/commentary/can-cyberwarfare-be-regulated-by-joseph-s-nye-2019-10] cameron

The problem of **perceptions** and controlling **escalation** is **not new**. In August 1914, the major European powers expected a short and sharp "Third Balkan War." The troops were expected to be home by Christmas.

After the assassination of the Austrian archduke in June, Austria-Hungary wanted to give Serbia a bloody nose, and Germany gave its Austrian ally a blank check rather than see it humiliated.

But when the Kaiser returned from vacation at the end of July and discovered how Austria had filled in the check, his efforts to de-escalate were too late. Nonetheless, he expected to prevail and almost did.
Had the Kaiser, the Czar, and the Emperor known in August 1914 that a little over four years later, all would lose their thrones and see their realms dismembered, they would not have gone to war.

Since 1945, nuclear weapons have served as a crystal ball in which leaders can glimpse the catastrophe implied by a major war. After the **C**uban **M**issile **C**risisin 1962, leaders learned the importance of **de-escalation**, arms-control **communication**, and **rules** of the road to **manage conflict**.

Cyber technology, of course, **lacks** the **clear** devastating **effects** of **nuclear weapons**, and that poses a different set of problems, because there is no crystal ball. During the Cold War, the great powers avoided direct engagement, but that is not true of cyber conflict. And yet the **threat** of cyber Pearl Harbors has been **exaggerated**.

Most cyber **conflicts** occur **below** the **threshold** established by the rules of armed conflict. They are **economic** and **political**,rather than **lethal**. It is **not credible** to **threaten** a **nuclear response** to cyber **theft**

of intellectual property by China or cyber **meddling** in elections by Russia.

According to American doctrine, deterrence is not limited to a cyber response (though that is possible). The **U.S.** will **respond** to cyberattacks across domains or sectors, with any weapons of its choice, **proportional** to the damage that has been done. That can range from **naming** and **shaming** to economic **sanctions** to **kinetic weapons**.

3. NO LINK. The ICC doesn't change protection measures, it just prosecutes them, and new collaboration improves protective systems.

Twingate '24 [Twingate; April 18th; Zero Trust Network Access platform; "What is the ICC? Cyber-enabled Crimes & Importance"; https://www.twingate.com/blog/glossary/international-criminal-court] parker

Importance of ICC in Cybersecurity

The **ICC**'s **involvement** in **cybersecurity** is significant as it **expands** the scope of **international** criminal **law** to include **cyber**-enabled **crimes**. By considering cybercrimes that violate the Rome Statute, the ICC acknowledges the profound impact these crimes can have on people's lives. The development of a policy paper on cybercrimes demonstrates the ICC's forward-thinking approach and anticipation of trying actual cases in the future.

Furthermore,the **ICC**'s **collaboration** with **tech**nology **companies**, civil society, academia,**states**, **international organizations**, and the **judiciary** highlights its commitment to addressing the practical implications of cyber-enabled crimes. This broad collaboration ensures that the **ICC** is **equipped** to tackle the unique challenges of prosecuting individuals for cyber attacks,such as **identifying** specific **perpetrators** and the **need** for **technical expertise**.

ICC vs. Traditional Cybersecurity Measures

When comparing the ICC to traditional cybersecurity measures,the **ICC**'s focus on cyber-enabled crimes that **violate** the **Rome Statute**, such as war crimes and crimes against humanity,sets it apart. **Traditional cybersecurity** measurestypically **address** technical **vulnerabilities** and protect against cyber threats, while the **ICC** seeks to hold individuals **accountable** for cybercrimes with significant human impact.

Another key difference is the ICC's collaboration with a wide range of stakeholders, including technology companies, civil society, academia, states, international organizations, and the judiciary. This broad collaboration ensures that the ICC is equipped to tackle the unique challenges of prosecuting individuals for cyber attacks, such as identifying specific perpetrators and the need for technical expertise.

4. NQ. 1NC NSI/Wells concedes the uncertainty occurs now - the card is not about accession even though we're not in the ICC.

NSI 23 (National Security Institute (NSI) at George Mason University's Antonin Scalia Law School, 11/20/2023, "Uncrossed Wires — Cyberspace and Gavels: Navigating the ICC's New Mandate on Cyberwar Crimes," https://thescif.org/uncrossed-wires-cyberspace-and-gavels-navigating-the-iccs-new-mandate-on-cyberwar-crimes-23dbf4102387) ghs-michael

In a significant step forward, the International Criminal Court (ICC) has expanded its purview to include specific cyber-attacks under the umbrella of potential war crimes. This mainly concerns cyber-attacks targeted at essential services and facilities — like electricity networks, hospitals, and banks — that, if disrupted, could put civilian lives at risk or cause substantial harm. Such acts, by their nature, could breach the established rules of international conflict, drawing the scrutiny and potential action of the ICC. This **move underscores the evolving landscape of warfare and the need to protect citizens in an increasingly digital world**. Cyber operations that target mobile communications and power infrastructure, aiming to disrupt the enemy's communication, command, control, and intelligence — thereby shaping the battlefield for integrated military tactics — could also be

interpreted as war crimes. By **targeting cyber aggression**, particularly against civilian infrastructure, the ICC looks to set a global standard for holding perpetrators accountable. Why it matters: The **decision to prosecute cyberwar crimes under the framework of the ICC's Rome Statute** and **equate them with traditional forms of war crimes is an explicit acknowledgment of the severity and potential devastation these acts can inflict**. The decision also underscores the urgent need for a concrete legal mechanism to deter and, when necessary, prosecute those who exploit the digital realm to commit acts of aggression against sovereign nations and their civilian populations. **Future ICC judgments and other determinations may have significant implications for current US military doctrine** and could **reshape the landscape of international law and cyber warfare globally**. Understanding the challenges and consequences of this expansion is essential. The debate: **Attributing cyberattacks to specific actors is a persistent challenge due to the clandestine nature of cyber operations, the use of proxies, and advanced persistent threats.** This attribution challenge can **lead to legal uncertainty, diplomatic tensions, and the erosion of deterrence in cyberspace.** The ICC mandate may have unintended consequences for US and NATO cyber operations, both those that occurred in the past and those taking place in the future. These consequences could include retroactive accountability, increasing geopolitical tensions, and reconsidering strategies and tactics in response to the evolving legal landscape. What's next: As the ICC broadens its scope to include cyberwar crimes, global collaboration is urgently needed to create effective strategies for this new era. Policymakers, military strategists, and legal experts must work together to develop a comprehensive framework that balances national security and accountability. Key steps should include: Developing a Standardized Protocol for International Cyber Incidents: Establishing guidelines for identifying the sources of cyberattacks, enabling diplomatic dialogues, and ensuring coordinated international responses. Establishing International Cyber Agreements: These should mirror arms control treaties, limit specific cyber capabilities, increase transparency, and provide dispute resolution mechanisms. Forming Cybersecurity Partnerships: The U.S. and other nations should establish bilateral and multilateral alliances focused on exchanging threat intelligence and best practices, strengthening cyber defenses, and fostering a more secure digital environment. Creating International Cyber Norms in Collaboration with the UN: This should set guidelines for responsible state behavior in cyberspace, promoting global stability and cooperation. The bottom line: The **ICC's expansion into cyberwar crimes is a significant step in addressing cyber threats under international law.** However, it brings forth challenges in attribution, the lack of clear definitions, and potential unintended consequences for U.S. and NATO cyber operations. Exploring the establishment of international cyber norms offers an alternative approach rooted in diplomacy, cooperation, and conflict prevention. Balancing accountability with international cooperation is paramount in addressing cyberwar crimes, and further research and policy development in this field is essential.

7. No empirical backing for their nuclear impact .

Matthew **Kroenig et al., 21**. Professor in the Department of Government and the Edmund A. Walsh School of Foreign Service at Georgetown University, and the Deputy director of the Scowcroft Center for Strategy and Security at the Atlantic Council. He was a Special Government Employee (SGE) for nuclear and missile defense policy in the Office of the Secretary of Defense from 2017 to 2021.Other authors include – Mark J. Massa, assistant director of Forward Defense at the Scowcroft Center for Strategy and Security, and Christian Trotti, assistant director of Forward Defense at the Scowcroft Center for Strategy and Security. "The Downsides of Downsizing: Why the United States Needs Four Hundred ICBMs." Atlantic Council Scowcroft Center for Strategy and Security. April 2021. https://www.jstor.org/stable/resrep30754

More fundamentally, this argument is unpersuasive because the UELE dilemma does not make logical sense and lacks support in the **historical record**. UELE is a false dilemma. **Never** in the real world is there the choice between **having one's nuclear weapons destroyed** in a nuclear strike or **launching a suicidal nuclear attack**. In the real world, leaders would have **many other options**, including negotiating, backing down from the crisis, or using conventional military force. To believe UELE, one would have to believe that leaders would **intentionally choose the worst possible option**: to start a suicidal nuclear war on uncertain warning. It is **illogical** that a country, fearing a devastating nuclear exchange, would consciously decide to initiate such an exchange, especially if faced by an opponent with a secure second strike.60

Moreover, there is no evidence for this theoretical concept in the **empirical record**. Nuclear states have fielded potentially vulnerable nuclear weapons for decades. And, although **dozens of nuclear crises** have occurred in the interim, the historical record bears **no ev**idence of leaders starting a nuclear war out of fear of **losing their arsenals**.

2NC---AT: interventions

.1 Can't solve the US- randomly joining the ICC won't make stop the US from funneling billions into the military, especially with Trump as president per their own uq

2. Assumes ICC pressure but no ICC country has the military or resources to challenge US and risk holding them accountable which is the only enforcement mechanism the court has.

3. - Empirics are neg, european countries part of ICC still do military interventions
4. The impact evidence is vague about wars starting, 4 years of trump in the past didnt trigger it and we're always competing with china and russia anyways

5. LT. Perception of "restraint" causes hotspot escalation and war---reverses solvency!

Mazarr '20 [Michael; Senior Political Scientist @ the RAND corporation; June 16; Taylor & Francis; "Rethinking Restraint: Why It Fails in Practice," https://www.tandfonline.com/doi/full/10.1080/0163660X.2020.1771042, accessible at: https://sci-hub.ru/https://doi.org/10.1080/0163660X.2020.1771042] tristan **brackets & ellipses r og**

Some leading members of this school, for example, urge an effective end to the NATO alliance69 whereas others propose gradual troop withdrawals with some conditions.70 Some argue that the US "forward presence in Asia has lost its Cold War security rationale" and recommend an end to alliances with Japan and South Korea71 or a vaguely-defined "reduction in U.S. forward deployments" in the region;72 others, as we will shortly see, worry about the rising threat from China and exclude Asia from their restraint agenda. Some advocates appear to propose immediately abandoning the Middle East;73 others highlight the region as the exception to **a global policy of retrenchment**.74 Some suggest that "terrorism should still elicit a strong response," 75 without specifying what US engagement this would demand. Such a response would appear to call for efforts to develop partner capabilities and conduct limited counterterrorism operations with a minimal footprint—but this is exactly the sort of posture the United States has now adopted in Iraq.76

Critically, most restrainers appear to agree that **the U**nited **S**tates **could not sit idly by if a hostile Russia invaded Europe**, **if China began waging wars against its neighbors, or if Iran undertook large-scale attacks**.77 **Given the nature of US global interests**,**this concession is unavoidable**, but it fatally complicates the coherence of any agenda for restraint: **if the United States must be ready to fight such distant, short-notice regional wars**,**then it is not clear just how much its** defense budget can be cut or its **global posture eviscerated**.78 Advocates of restraint often imply that reducing forward posture in and of itself will dramatically ease US defense burdens. But they misperceive the origins of US defense requirements, which flow from the contingencies that the United States decides it must be willing to fight (and how it plans to fight them).

Withdrawing US forces from abroad will not change that essential equation.79 It **could create new burdens**, in fact, in two ways: **by demanding added investments in power-projection capabilities to make up for the forces that are withdrawn, and by risking the truly enormous costs of major wars if US restraint invites new aggression.**

Hemmed in by such constraints on one issue after another, proponents of restraint usually end up advocating only partial or half-way disengagement in specific regions or on particular issues. Stephen Wertheim, even while calling for a dramatic pullback from the Middle East, still suggests that "Washington should of course try to broker the best possible settlements to the conflicts" in Syria and Iraq and "should continue to provide assistance to the Afghan and Iraqi governments." 80

But such responsibilities would appear to be precisely what restraint advocates are trying to escape. Barry Posen argues that the United States must still secure the global "commons," and he favors a potent maritime strategy to do so81—an ambitious goal that would keep the United States embroiled in regional maritime disputes such as those in the South China Sea. Even on the issue of humanitarian interventions, CATO Institute analysts Trevor Thrall and Benjamin Friedman contend that proponents of restraint "do not wholly reject them. … [I]f the danger to the people is high and the difficulty of intervention low, it is morally justified." 82 A better shorthand summary of the argument made by advocates of the intervention in Libya could hardly be imagined.

These halfway approaches rely in part on a questionable notion that the United States can disengage from the world or significant parts of it, undertake a more distant and conditional set of commitments, and if wars loom, decide then if it will respond. But **vague, halfway commitments are the worst kind of all**.83 **They tempt potential aggressors to act and allow situations to collapse into instability in cases where US national interests will not allow America to remain aloof. The United States will then have to go in and clean up the mess at far greater cost than if it had remained engaged in the first place.**

Such an outcome would ruin the restraint proponents' hope of limiting costs, because the truly crippling expenses of US foreign policy emerge in wars, not annual defense budgets. If a major new regional conflict matched the combined costs of the
lower-intensity Afghan and Iraq campaigns, for example (direct costs of between US$1 trillion and US$1.5 trillion and indirect costs, such as long-term veteran care, roughly double that84), a restraint agenda that cut US defense spending by US$100 billion a year would take over a quarter century to equal the savings of avoiding a single war.

This danger is far from theoretical: US detachment from Korea and Kuwait helped to tempt major aggression in 1950 and 1990. Restraint advocates scoff at the risk of war absent a US balancer and express confidence that other factors —such as **nuclear deterrence** and expanded defense efforts by others—will fill the vacuum of power left by US retrenchment.85 Even if this reasoning is true to a degree, such a policy would represent **a tremendous gamble**, one that might be justified if the only alternative were a militarized form of primacy. But US policy never conformed to that caricature, and **the United States has many options short of full-scale restraint to temper the risks and costs of global engagement.**

Dealing with the China Challenge

These dilemmas show up most of all in the way in which some restraint proponents handle the issue of China. **Given Chinese regional ambitions, predatory behavior, and coercion of its neighbors, there is a strong argument that the United States cannot pull back**—militarily or otherwise—**and effectively compete.** The problem is especially acute in Asia because of the likely effect of China's overwhelming power on the calculations of others: **countries in the region are urgently looking for evidence of credible US commitments. Without that evidence, many could end up deciding** that they have no alternative but **to appease, rather than balance, Chinese demands**.

Despite these concerns, some restraint proponents remain willing to include Asia in their retrenchment agenda. Yet, many leading advocates of restraint disagree and accept that deterring China must be a major exception to the general principle of retrenchment. Mearsheimer and Walt, for example, note that **China "is likely to seek hegemony in Asia**," that local powers are too dispersed and weak to offer an effective counter, and that **the United States will therefore have to "throw its considerable weight behind" a balancing effort**.86 Andrew Bacevich appears to agree.87

This admission is welcome—but it blows a massive hole in the case for restraint. **A serious US effort to contest Chinese**

hegemony will demand significant and growing regional presence in an operationally demanding theater. It will likely **require continued US troop deployments** in Japan and Korea, **deep engagement including extensive security cooperation activities with regional partners, and major financial commitments to counter Chinese economic statecraft**. In sum, if the United States intends to balance Chinese power, it is not clear how restrained it will be able to be. The global outline of restraint would begin to look not unlike a supercharged version of the "rebalance to Asia" announced by the Obama administration, with reduced posture in the Middle East and Europe but a renewed commitment to the Indo-Pacific region. If that is all restraint amounts to in the most geopolitically significant region in the world, it would not imply much of a change.

The dilemmas the China case creates for the restraint agenda come out clearly in Posen's analysis. He suggests that, in theory, retrenchment in Asia might work out fine—but "out of an abundance of caution … **the United States ought not to run this experiment**." In Asia, he concludes, "the locals may need the United States, and the United States may need the locals." **Washington should**, therefore, **play a balancing role to prevent Chinese regional hegemony.**88