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### Plan

#### Plan: The United States Federal Judiciary should substantially increase National Environmental Policy Act restrictions on the President’s authority to introduce Armed Forces into hostilities.

### 1AC – Warming

#### Contention 1 is Warming

#### Warming suits rest on shaky ground – standing and political questions key

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I. THE JUSTICIABILITY AND STANDING BARRIERS Since their inception, global warming suits have faced challenging legal barriers. n26 The most significant barriers have been justiciability of a global warming claim and standing to sue for a crisis affecting millions. n27 A. The Political Question Doctrine One of the most challenging obstacles facing global warming plaintiffs is justiciability, or the political question doctrine. n28 Under Article III of the Constitution, the federal courts only have jurisdiction over questions, issues, cases, and controversies that are "justiciable." n29 A matter is "'justiciable' when it is constitutionally capable of being decided by a federal court." n30 Conversely, "nonjusticiability" or a "political question" exists when a matter has been committed exclusively to the political branches by the Constitution or by federal law. n31 In that case, a federal court would not have jurisdiction over the matter. n32 When a matter is justiciable, however, a federal court has an obligation to exercise [\*129] jurisdiction over it. n33 The policy behind this duty is to prevent a court from dismissing an action because it has political implications. n34 In practice, dismissal for nonjusticiability has been rare; since Baker v. Carr in 1962, discussed below, the Supreme Court has only dismissed two cases as political questions. n35 The Court has yet to rule explicitly on the justiciability of a global warming claim. n36 1. The Baker Factors Until the 1960s, determining which matters were better left to other branches of the government was a confusing and disorderly task. n37 Baker v. Carr rescued the doctrine of justiciability from irregular application by proposing a list of six "formulations" that describe a political question: n38 [(1)] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [(2)] a lack of judicially discoverable and manageable standards for resolving it; or [(3)] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [(4)] the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or [(5)] an unusual need for unquestioning adherence to a political decision already made; or [(6)] the potentiality of embarrassment from multifarious pronouncements by various departments on one question. n39 [\*130] The Baker Court ensured that these factors would not be used to block legitimate cases from federal court by setting a high standard for non-justiciability. n40 The effect has been rare assertion of the political question doctrine in most cases, n41 including common law tort claims. n42 However, the political question doctrine has presented a challenge for plaintiffs in the nascent area of global warming. n43 The Supreme Court later added a threshold requirement to the Baker analysis: "whether and to what extent the issue is textually committed" to a political branch. n44 In Nixon v. United States, the Court set out a two-pronged test for determining whether this threshold was met: (1) identification of the issues that the plaintiff's claims pose and (2) interpreting the constitutional text in question to determine the extent to which the issues are "textually committed" to a political branch. n45 2. Global Warming Claims are Held Justiciable The first global warming case to apply the Baker factors was Connecticut v. American Electric Power Co. (AEP). n46 When AEP was brought before the District Court for the Southern District of New York, the court conservatively chose to view the global warming issue as too complex and too entwined with politics to be justiciable. n47 However, by the time the case reached the Second Circuit on appeal, the first global warming case, Massachusetts v. EPA, had been handed down by the Supreme [\*131] Court. n48 Although that case did not explicitly address the justiciability issue, it stands for the principle that federal courts have jurisdiction to hear cases alleging global warming as an injury. n49 By upholding a state's standing to sue for injury deriving from the EPA's failure to regulate greenhouse gas emissions, the Supreme Court had endorsed, for the first time, global warming suits in general. n50 In the wake of Massachusetts v. EPA's recognition of global warming as an adequate injury for standing--and in effect, nonjusticiability n51 --the Second Circuit reversed. n52 Applying the Baker factors, the Second Circuit in AEP rejected the power companies' argument that the plaintiffs' use of a federal common law nuisance cause of action to reduce domestic carbon dioxide emissions would "impermissibly interfere with the President's authority to manage foreign relations." n53 The court countered that the plaintiffs were not asking the court "to fashion a comprehensive and far-reaching solution to global climate change." n54 Instead, they were seeking to limit the emissions of only the six defendant plants based upon their contention that these defendants are causing them injury. n55 Assessing the second Baker factor, the court reasoned that complex federal public nuisance cases have been commonplace during the past century of legal history, n56 and that "well-settled principles of tort and public nuisance law" have frequently been used to analyze a variety of new and complex problems. n57 [\*132] As to the third Baker factor, defendants argued that the complexities surrounding global warming give way to "unmanageable policy questions a court would then have to confront" in deciding the case. n58 The court disagreed, holding that a federal court deciding a common law nuisance cause of action, "brought by domestic plaintiffs against domestic companies for domestic conduct, does not establish a national or international emissions policy." n59 The court added that the plaintiffs "need not await an 'initial policy determination' in order to proceed on this . . . claim," n60 and that Congress's hesitancy to pass a law regulating greenhouse gas emissions does not equal an intent "to supplant the existing common law in that area." n61 In assessing the final three Baker factors, the court recognized that the United States does not have a "unified" global warming policy. n62 Thus, by deciding this case, it is impossible for the court to "demonstrate any lack of respect for the political branches, contravene a relevant political decision already made, or result in multifarious pronouncements that would embarrass the nation." n63 The defendants themselves cited legislation indicating that the United States intends to create legislation in the future, which will reduce the emission of greenhouse gases. n64 In sum, the court held that the district court erred in its dismissal of the plaintiffs' claim on justiciability grounds. n65 B. Standing Another hurdle for global warming plaintiffs is standing. n66 This prerequisite to suit limits the jurisdiction of federal courts to certain delineated "Cases" and "Controversies" under Article III, Section 2 of the U.S. Constitution. n67 There are two basic forms of standing: state--or [\*133] parens patriae--standing n68 and individual standing. n69 As parens patriae, or "parent of the country," a state asserts a "quasi-sovereign interest" in protecting the health and well-being of its citizens, as well as its own "interest independent of and behind the titles of its citizens, in all the earth and air within its domain." n70 The Supreme Court has allowed states a lowered bar, or special solicitude, for standing given their unique status. n71 An individual, in contrast, sues for his or her own personal injury without the benefit of a lowered bar to standing. n72 In the case of global warming plaintiffs, standing is problematic in three ways: (1) the uncertainty of the injury; (2) the sufficiency of scientific evidence linking global warming with its effects; and (3) the redressability of a world-wide problem. n73 1. Modern Standing: The Lujan Cases In the 1980s, the Reagan Administration's policies to stem the flow of citizen suits and limit the EPA's enforcement capabilities narrowed the standing doctrine. n74 These policies resulted in two landmark standing decisions, both written by Justice Scalia: n75 Lujan v. National Wildlife Federation (Lujan I) and Lujan v. Defenders of Wildlife (Lujan II). n76 The Lujan cases turned the modern standing doctrine into a strict test. a. The Modern Standing Test In Lujan I, decided in 1990, the Supreme Court identified two requirements that an individual must establish in order to bring suit: (1) [\*134] some specific harm caused by the defendant; and (2) either a "legal wrong" caused by the challenged action, or that the plaintiff is "adversely affected or aggrieved . . . within the meaning of a relevant statute." n77 In that case, the plaintiffs' claim failed to satisfy the standing test due to lack of specificity and certainty of injury. n78 If there was any question that Lujan I had altered the standing doctrine, Justice Scalia affirmed that the doctrine was indeed narrowed two years later in Lujan II. n79 In his plurality opinion, Justice Scalia synthesized a three-part "irreducible constitutional minimum of standing" from past cases: (1) injury in fact, which is (a) "concrete and particularized" and (b) "actual or imminent"; (2) "a causal connection between the injury and the conduct complained of"; and (3) "it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision." n80 The Court held that a nebulous future intent to observe endangered species in a foreign country did not constitute actual or imminent injury. n81 Also, redressability could not be obtained because even if the Court granted the "injunction requiring the Secretary to publish [the plaintiffs'] desired regulation," it would not be binding on the agencies and thus ineffective in producing the desired result. n82 In his concurrence, Justice Kennedy foreshadowed the global warming cases of the new millennium with a broad proclamation: "Congress has the power to define injuries and articulate chains of causation that will give rise to a case or controversy where none existed before." n83 b. Burden of Proof for Standing and the Merits Another important part of the Lujan II decision is its discussion of the requisite burden of proof of standing for each stage in the litigation. n84 When a plaintiff seeks to assert standing at the pleading stage, "general factual allegations of injury resulting from the defendant's conduct may suffice, for on a motion to dismiss we 'presum[e] that general allegations embrace those specific facts that are necessary to [\*135] support the claim.'" n85 Summary judgment, on the other hand, requires an assertion of specific facts. n86 Finally, when proving a claim on the merits, the facts must be adequately supported by the evidence. n87 At this point in the litigation, the burden of proof is a preponderance of the evidence. n88 Thus, proof of standing at the pleading stage requires a lower burden than proof on the merits. n89 2. Global Warming Suits a. The Broadening of the Standing Doctrine for Global Warming Plaintiffs The first global warming case to be decided by the Supreme Court, Massachusetts v. EPA, changed the course of the standing doctrine, broadening it to allow more plaintiffs standing to sue under a cause of action based on global warming. n90 The case is considered a landmark decision in environmental law because of its bold grant of standing for a seemingly untraceable and unparticularized injury. n91 Massachusetts sought review of the EPA's decision not to regulate greenhouse gas emissions from motor vehicles under the Clean Air Act. n92 In its capacity as parens patriae, the Commonwealth claimed both present and future injuries, such as loss of coastline due to rising sea levels and more intense storm events, "severe and irreversible changes to natural ecosystems," and an increase in the spread of disease. n93 The Court could have [\*136] followed Lujan II and rejected the claim of injury for lack of particularity, imminence, or traceability. n94 Instead, the Court reached back to turn-of-the-century precedent, Georgia v. Tennessee Copper, Co., for the notion that states deserve "special solicitude" in the standing analysis when invoking a quasi-sovereign interest. n95 In a 5-4 decision, the Court held that Massachusetts had alleged: (1) particularized injury, because of its ownership of substantial property that had already been swallowed by rising seas; n96 (2) causation, because defendants had contributed significantly to the plaintiff's injuries by refusing to regulate greenhouse gas emissions; n97 and (3) redressability, because even an incremental improvement in the plaintiff's harm would help redress the injury. n98 Massachusetts v. EPA gave plaintiffs with pending global warming cases new hope by opening up the courts to their claims for the first time. n99 However, the decision on standing was surprising to the legal community, as evidenced by Chief Justice Roberts's vigorous dissent. n100 The dissent accused the majority of using "the dire nature of global warming . . . as a bootstrap for causation and redressability." n101 It further argued that the plaintiff's alleged injury was neither imminent nor actual, but "pure conjecture," going so far as to deny that global warming could ever constitute a particularized injury. n102 In spite of these concerns, the majority of the Supreme Court placed its imprimatur on global warming suits in general, n103 giving future global warming litigants positive authority to cite in their arguments. n104 [\*137] b. The Second Circuit Grants Non-State Entities Standing for Global Warming AEP, a public nuisance action for global warming injury brought by a group of states, land trusts, and a city, solidified the new broader standing analysis of Massachusetts v. EPA and extended it to non-state parties. n105 In that case, the plaintiffs sued electric power plants for injuries arising from defendants' contribution to global warming by burning fossil fuels. n106 The states and city asserted a litany of present and future injuries, including temperature increase leading to a decrease in mountain snowpack used for drinking water, earlier spring melting, flooding, and sea level rise, which had already begun to inundate their coastal property and would continue without abatement. n107 The trusts claimed the following "special" future injuries: a decrease in the ecological value of their properties, permanent inundation of some of their property, and destruction of wildlife habitat from smog and salinization. n108 At the district court level, the plaintiffs' claims were dismissed as nonjusticiable. n109 The district court judge refused to analyze the issue of standing because it "would involve an analysis of the merits of Plaintiffs' claims." n110 However, on appeal, the Second Circuit vacated the lower court's decision, holding that the state plaintiffs had asserted concrete, particularized, and redressable injury that was "fairly traceable" to the actions of defendants, thus meeting the standing test under Lujan II. n111 For the first time, non-state plaintiffs--New York City and the land trusts--were also granted standing for asserting similar injuries. n112 Since the court vacated and remanded back to the district court, it never addressed the merits of the case. n113 In December of 2010, the Supreme Court granted certiorari to American Electric Power Co. n114 This will be the first opportunity for the Supreme Court to rule on the legitimacy of public nuisance [\*138] claims against greenhouse-gas-emitting companies for global warming injuries. n115

#### Warming agreements are failing in the status quo – U.S. leadership is key to jumpstart negotiations and lead to a grand bargain

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[Lenore, The Age (Melbourne, Australia), Earth summit revisited: is the movement doomed to be an endless talkfest? 6/16/12, l/n]

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The meeting will seek to agree to start talks on a set of "sustainable development goals" - targets for rich and poor countries alike to take effect in 2015 when the "millennium goals" announced in 2000 reach their expiry date. Sustainable development goals sound pretty waffly, but according to Professor Stephen Howes, of the Australian National University's Crawford School, the millennium goals were at least useful in holding governments to account on promises such as levels of spending on overseas aid - and sustainable development goals could serve a similar purpose. But even an agreement to try to reach an agreement on such goals could founder on the perennial north-south divide. According to The Hindu newspaper, the Indian government's strategy for the Rio summit is to "prevent any attempt to pin down specific goals or targets regarding sustainable development". Indian Prime Minister Manmohan Singh will reportedly oppose even a decision on what "themes" any goals might cover. At the first Rio meeting, the gap between developed and developing countries was recognised in the climate change convention, which effectively promised that rich countries would act first, and when poor countries did do something, the rich countries would pay. It is a principle that has gridlocked climate talks for decades, and to which the developing world remains wedded despite huge geopolitical shifts over the past two decades. And at this meeting the developing countries will also have greater numbers and clout. George Bush senior attended last time as the US president, but President Barack Obama is sending Secretary of State Hillary Clinton to lead the American team. Deeply mired in Europe's financial woes, neither British Prime Minister David Cameron nor German Chancellor Angela Merkel is going either. But the leaders of India, Russia, China and, of course, host nation Brazil are all going to be there. Professor Howes says part of the reason multilateral decision-making is at such a low point is that in this era of global political transition there is no superpower to take the lead. "For most environmental problems that have been successfully tackled, the United States played a leading role, for example on ozone. Now we don't get a lot of US leadership on environmental problems and we have China emerging as the world's largest emitter. They are starting to take the problem more seriously but are unwilling to take the lead," he says. "It is symptomatic of the geopolitical transition. You have a once dominant superpower being challenged and an emerging superpower that is not willing to take on a global leadership role." In such a situation, grand legally binding deals become impossible. Messy "bottom up" pacts on goals or targets or unilateral pledges that taken together might add up to something are the best negotiators can hope for, and even they are difficult to achieve. Which might be why another objective of the Rio Summit is to reform the bodies through which the United Nations makes decisions on the environment, institutions that frequently end up mired in endless talkfests, in part because they require complete consensus to act on anything.

#### Court action to undo the harmful judicially created national security exemption in NEPA is crucial to solving global climate change – through transnational legal norms, and credibility in climate negotiations

**Gormley 10** (Neil Gormley, J.D., 2009, Harvard Law School, “Standing in the Way of Cooperation: Citizen Standing and Compliance with Environmental Agreements,” Summer 2010, West Northwest Journal of Environmental Law & Policy, 16 Hastings W.-N.W. J. Env. L. & Pol'y 397)

The Supreme Court's approach to standing, therefore, raises serious questions about the viability of a bedrock of U.S. environmental law - the citizen suit. Cass Sunstein concluded in the wake of Lujan that "it is now [\*405] apparently the law that Article III forbids Congress from granting standing to "citizens' to bring suit." n48 At the very least, as we have seen, these developments in standing doctrine will make the burdens on citizens and environmental groups more onerous. I will argue in Part II that standing doctrine may someday present insuperable obstacles to citizen suit enforcement with respect to international environmental problems that are yet to be comprehensively addressed under U.S. law. The growing doctrinal obstacles to the enforcement of federal environmental law via citizen suit are not, of course, strictly confined to Article III standing. A wide range of justiciability doctrines deter and weaken environmental citizen suits, including the Administrative Procedure Act's bar on "programmatic" challenges to agency action, announced in Lujan v. National Wildlife Federation, n49 and the arcane distinctions in Norton v. SUWA between agency "action" and agency "inaction" for purposes of determining whether the APA permits suit. n50 Perhaps the most prominent of these developments is the Court's 2008 decision in Winter v. NRDC, which raised the bar for even successful environmental plaintiffs to obtain injunctive relief. n51 In Winter, the Court decided that the balance of the equities and the public interest weighed against granting a preliminary injunction to environmental groups seeking to force the Navy to comply with the National Environmental Policy Act. n52 Particularly in the way it characterized the harms to be balanced in that inquiry - considering the risk of a national security incident but holding the environmental plaintiffs to a standard of actual, documented, past harm to wildlife - the Court took an approach to balancing that seemed systematically to disadvantage environmental plaintiffs. Interestingly, there were echoes of the Court's environmental standing jurisprudence in its balancing-of-the-harms analysis in Winter. Though NEPA is a procedural statute, the court did not consider or weigh any procedural harms on the side of the environmental plaintiffs, focusing instead on the types of harms that environmental plaintiffs traditionally have had to rely on to establish standing - individualized scientific, recreational and aesthetic harms. n53 At oral argument, Justice Scalia went so far as to evoke explicitly the requirements of Article III standing in the [\*406] discussion of what harms count for purposes of equitable injunctions. n54 Thus Winter may yet provide a new opening for reinserting common law conceptions of injury into these complex regulatory disputes. n55 Perhaps most significantly, Winter also announced that a district court would abuse its discretion in granting an injunction to the environmental groups even if they ultimately prevailed on the merits. n56 Winter thus appears to represent another significant obstacle in the path of environmental groups trying to force executive compliance with the law. Importantly, however, the decisions in National Wildlife Federation, Norton v. SUWA and Winters are not constitutional. Given sufficient political will, Congress can smooth those obstacles to environmental citizen suits by amending the Administrative Procedure Act and Federal Rule of Civil Procedure 65(a), governing preliminary injunctions. Because the core of Article III standing doctrine is, by contrast, beyond the capacity of Congress to alter by statute, standing decisions are likely to impose the steepest costs in enforcement of environmental law in the future. This cost to effective enforcement should be borne in mind as courts decide whether to embark down any of the several avenues that exist for reconciling Article III standing and environmental citizen suits. First, courts can opt to extend the Massachusetts approach to causation and redressability to all plaintiffs, rather than confining it to states. They also might accommodate citizen suits by indulging in some slight of hand concerning the nature of the injury that is required. Courts have shown themselves willing, in the past, to sidestep standing difficulties by simply redefining the injury. n57 Thus, in Laidlaw, a "reasonable fear" of illness stemming from toxic emissions was enough to confer standing. n58 A generous application of the "reasonable fear" approach could go a long way towards getting [\*407] environmental groups into court. Finally, the most accommodating way forward, by far, would be to recognize the power of Congress to define injuries and articulate chains of causation free from the constraints of the common law. III. The Problem of Compliance The ability of citizens to access courts in order to compel executive compliance with environmental laws may have important repercussions on the international plane, because domestic enforcement bears on one of the most fundamental questions in the design of international environmental agreements - why do states comply with their commitments? International environmental problems require deep cooperation among states. Given the prevalence of physical, economic, and psychological externalities associated with environmentally harmful practices, cooperation is necessary to the realization of the mutual benefits of common solutions. n59 Negotiated agreements, of course, only facilitate cooperation if states comply with them. Furthermore, expectations about compliance will often constrain the depth of the commitments that states are willing to make - that is, the extent to which they are willing to depart from the course that they would have taken in the absence of cooperation. Just as in private contract situations, states need to be able to rely on credible commitments by other states, especially when the contemplated activities are highly reciprocal. A state party may not be willing to embark on a path of costly pollution control, for example, without highly credible commitments from peer states that they will make the same sacrifices. David Victor blames the shallowness of international environmental law generally on the failure of efforts to develop effective compliance mechanisms. n60 The risk of defection in the environmental context is generally quite high. Because of scientific and economic uncertainty, the costs and benefits of cooperation are difficult to predict and assess ex ante. Moreover, this uncertainty is magnified by the long duration of cooperation that is often necessary to deal effectively with serious environmental problems. Similarly, political economy models predict that compliance with environmental commitments will be inconsistent. n61 The costs of [\*408] environmental regulation are typically highly concentrated, so that regulated sectors - industry groups in particular - have strong incentives to oppose compliance over time. The benefits of regulation, by contrast, are typically diffuse. Beneficiaries face higher transaction costs in organizing in favor of compliance, and high levels of political mobilization may be unsustainable over the long term. As Sunstein argues, the fact that environmental commitments are concluded at all often has to do with the "availability heuristic." n62 By this reasoning, environmental regulation has more widespread appeal when environmental harms are more "cognitively available" - when vivid and salient examples are present in the popular consciousness. As the cognitive availability of environmental harms fades, popular support for costly regulatory measures - and thus for compliance with environmental agreements that compel such measures - tends to fade as well. Given these challenges, how can the advocates of international environmental cooperation ensure compliance with negotiated agreements? A wide variety of explanations have been advanced to explain observed compliance. They need not be viewed as mutually exclusive; more likely, each of these mechanisms contributes in some respect to state compliance. The leading explanations include the reputational costs of defection, n63 the perceived fairness and legitimacy of negotiated agreements, n64 social learning, n65 and administrative capacity-building, both bilateral and multilateral. n66 Transnational legal process theorists, such as Harold Koh and Anne Marie Slaughter, predict greater compliance stemming from interactions - direct and indirect - between the legal institutions, broadly understood, of different countries. n67 Other theorists are far less sanguine about the prospects for compliance with international agreements in the face of changing conditions. Goldsmith and Posner have famously argued that the discipline [\*409] of international law mistakes correlation for causation. n68 They argue that the behaviors that international lawyers take to be manifestations of opinio juris are actually no more than states acting in their own interests. Pursuit of the national interest, they suggest, happens to produce consistent behaviors, at most times and in most places, which are mistaken for legal norms. Relatedly, David Victor and Kal Raustiala have questioned whether international law - as opposed to international political processes, culminating in so-called "soft law" - contributes meaningfully to compliance. n69 They point to several instances of highly effective environmental cooperation among states on the basis of non-legally binding agreements, and reason that nations may be more likely to agree to robust monitoring regimes when the commitments at stake are not legally binding. The accounts of compliance with international law that accord the most weight to direct enforceability of commitments in domestic legal systems are liberal theories, which focus on the distinctive domestic institutions of so-called "liberal states." Thus, according to David Victor, there are certain states - liberal democracies - "in which internal public pressure [and] robust legal systems make it possible to enforce international commitments from the inside (ground-up) rather than the outside (top-down)." n70 None of these, however, pays much heed to the potential for domestic courts to play a role in escaping the compliance dilemma. Even liberal theories tend to focus instead on interest groups and on the operations of the political branches. n71 Victor identified the existence of independent judiciaries as one of three factors explaining heightened compliance with international obligations by liberal states, but left the idea unexplored. He emphasized that "more work is needed to unravel [the] conditions under which they are most effective." n72 [\*410] Oona Hathaway offers empirical support for the hypothesis that domestic legal enforcement contributes meaningfully to compliance with international obligations. n73 After reviewing a range of studies, both qualitative and quantitative, that assess compliance with human rights law, she reaches two conclusions that are relevant here. First, states that boast independent judiciaries, media, and political parties are more likely to join treaties when their human rights practices are good, and are more likely to improve their practices upon joining. n74 In other words, they take their international legal obligations seriously. Second, just as domestic enforcement contributes to international compliance, the existence of "robust domestic rule-of-law institutions" tends to strengthen domestic enforcement. n75 Hathaway concludes, therefore, that work to strengthen local rule of law serves the ultimate goal of compliance with international human rights agreements. n76 In the environmental context, the compliance-reinforcing potential of domestic enforcement mechanisms is particularly pronounced. In the United States, citizen suits have been tremendously effective at forcing executive compliance, at both the federal and state levels, with the major federal environmental statutes. James May offers this assessment: Citizen suits work; they have transformed the environmental movement, and with it, society. Citizen suits have secured compliance by myriad agencies and thousands of polluting facilities, diminished pounds of pollution produced by the billions, and protected hundreds of rare species and thousands of acres of ecologically important land. The foregone monetary value of citizen enforcement has conserved innumerable agency resources and saved taxpayers billions. n77 Citizen suits are a staple of federal environmental law: nearly every major environmental statute imparts a private right of action to citizens. n78 And nearly 75 percent of all actions to enforce domestic environmental laws take the form of citizen suits. n79 Steps to make the environmental treaty obligations of the executive branch enforceable by citizen suit, therefore, may be expected to improve compliance. [\*411] Two overarching approaches to enforcement of international commitments by citizen suit are possible. First, environmental agreements could be made to include more specific, self-executing obligations, from the outset. n80 Alternatively, international agreements could continue to adhere to the model common to the Montreal and Kyoto protocols, whereby states commit to broad quantitative reductions, only now with an additional treaty obligation to provide for private enforcement of subsequent implementing legislation in the domestic legal system. Although this latter option would leave some margin for noncompliance, that margin would be highly circumscribed. Most noncompliance with environmental obligations is not through overt repudiation at the level of the executive or national legislature, but through non-enforcement. n81 Thus, whether international environmental agreements themselves create privately enforceable rights or those provisions are instead inserted later at the time of passage of implementing legislation by the legislature, the availability of citizen suits will greatly diminish the opportunity for states subsequently to renege through inaction on their commitments. n82 The key is to harness the enforcement potential of citizen suits in service of international compliance. This strategy is further recommended by the fact that domestic courts may be particularly well-suited, in institutional terms, to the task of long-term enforcement in the environmental context. Independent judiciaries are, in part by definition, more insulated from politics than the executive and the legislature, which means that they are also insulated from some of the most dangerous biases of political actors: short-termism, tendency to undervalue low-risk events, and unwillingness to face up to catastrophic risk. n83 Yet, generally speaking, domestic courts are not so insulated from the political tenor of a country so as to fail to perceive the costs of compliance. n84 Hence, they offer a solution to the vexing trade-off between credibility and [\*412] flexibility faced by the framers of international agreements in which environmental commitments - with their uncertain long-term costs - are at issue. What a country wants is to be bound when the question is close - so as to be able to make a credible commitment - but not when, from their perspective, circumstances have changed so much as to excuse noncompliance. n85 States are understandably wary of trusting foreign or international authorities to recognize and accommodate such instances of changed circumstances. A domestic institution is more likely to do so, even in cases of true judicial independence, simply by virtue of shared background assumptions that inhere in national identity and culture. Maximizing the extent to which international environmental commitments can make use of domestic legal institutions, therefore, may allow for optimal pre-commitment strategies. In addition to being highly effective, domestic enforcement of international environmental commitments is likely to be more politically palatable, at the stage of institutional design and ratification, than the alternatives. n86 Existing international agreements in this area are notable for their lack of monitoring, sanctions, and other international oversight mechanisms. n87 In the United States, at least, concerns about loss of national sovereignty to international institutions are highly politically salient, and often carried to irrational, even paranoid, extremes. n88 Thus, political resistance to foreign and international monitoring and sanctions regimes often goes far beyond what one would expect given the simple risk that those institutions will be insufficiently attentive to national interests in hard cases. This resistance means that any achievements in international oversight often come at the expense of the depth of the commitments made. n89 In the environmental context, therefore, provision for domestic judicial enforcement of international commitments may be a Goldilocks solution: just enough precommitment, without the steep political price upfront. Such a strategy, however, is closely bound up with the difficult questions about standing doctrine that were discussed in Part I. A [\*413] hospitable doctrine of standing is among the conditions necessary for making domestic courts an effective tool in ensuring compliance with international environmental agreements. If, instead, standing doctrine continues to constrict the environmental citizen suits that make it into court, these compliance benefits will be commensurately foregone. Ironically, standing doctrine will sweep most broadly in excluding citizen enforcement in a substantive area such as environmental law where the achievement of international cooperation was already highly challenging. In a further irony, the imminence and causation requirements of restrictive standing doctrine will make domestic enforcement most difficult to attain precisely when international institutions are most in need of support from domestic sources of compliance pressure: at the early stages of cooperation to address an incipient environmental problem. Climate change is the prime example of these risks, but the mismatch between standing doctrine and the substance of international environmental cooperation is institutional; it has the potential to extend far beyond the particular problem of climate change. Other environmental regimes promise even less concrete, more diffuse, and longer-term benefits from regulation. For example, failure of states to heed commitments directed towards preserving biodiversity will often fail to implicate any plaintiffs in particular. n90 What American has an "injury-in-fact," as interpreted by Justice Scalia, when an agency fails to take action to preserve the genetic diversity of obscure insects, plant species, or microorganisms, the use value of which to humans is almost nonexistent in the short or medium term? n91 Another highly problematic example is explored by Paul Hawken, Amory Lovins and L. Hunter Lovins in Natural Capitalism. n92 Several European countries have made great strides in reducing demand for natural resources and supply of solid waste by imposing responsibility for disposal and other "full life-cycle costs" on the manufacturers of consumer durables and industrial products. But when the environmental goods and services conserved by European states are freely traded, other economies can free-ride off of their efforts. If the United States agreed by treaty to impose similar requirements on manufacturers, what citizens would have standing to challenge executive noncompliance with resulting legislation? The doctrine of Article III standing has profound and far-reaching consequences for United States participation in international regimes to address the pressing environmental problems of today and tomorrow. If standing doctrine remains restrictive, unpredictable, and immune to [\*414] alteration by Congress, the international environment will pay part of the price. IV. Credibility as Negotiating Advantage The course of United States standing doctrine, of course, will not directly influence the enforceability of internationally agreed-upon environmental rules within other countries. Therefore, one might legitimately question the extent to which a change in the domestic law of one state - even that of a hegemonic power - will meaningfully affect the prospects for effective international coordination. n93 One response to such criticism is that removing one obstacle to greater reliance on domestic enforceability in international environmental regimes is a step in the right direction. As Justice Stevens reasoned in Massachusetts v. EPA, that a step is incremental does not defeat its utility. n94 But there also is a separate, stronger response: More robust domestic enforcement will strengthen the hand of the United States in international negotiations, whether or not other countries move in the same direction. The academic literature surrounding negotiation has a tendency to analyze the concept of credibility in the context of threats. That is, in bargaining over the spoils within a zone of possible agreement, the party that is able to tie its own hands or burn its bridges (or create the credible impression of having done so), alters (or obscures) its true bottom line. By threatening to walk away from the table, that party captures a greater share of the mutual benefits from agreement. n95 But as I explain, the capacity to make credible promises is also an asset in negotiation. The weakening of domestic enforcement of environmental law renders less valuable the promises made by U.S. negotiators, n96 by the following chain of causation: More restrictive environmental standing hinders domestic judicial enforcement, which in turn makes defection by the executive more likely, which drives negotiating partners to discount the value of promised actions by the (increased) likelihood of defection, thereby [\*415] rendering U.S. promises less valuable. As a result, the U.S. is able to get less in exchange for its promises in international environmental negotiations. Many scholars, however, emphasize the value of flexibility in international agreements, particularly in situations of uncertainty. n97 An advocate of restrictive standing might, in reliance on these analyses, argue that the gain in flexibility to the United States is worth the cost in terms of lost credibility. But the hypothesized Lujan apologist would be wrong. Weakened enforcement by the domestic courts serves only to narrow the range of options available to the political branches in the international arena. Whereas a state that is able to make credible promises can calibrate the value of a promise by varying its substantive content as it wishes, a state lacking credibility is limited in what it can (effectively, credibly) promise. In other words, a state in possession of credibility can still enjoy the benefits of flexibility, but the reverse is not true. Strategies of pre-commitment like domestic enforceability may be particularly useful to hegemonic powers like the United States. Hegemons of course, have a strong interest in preservation of the status quo. While ascendant political forces in the United States have, up to the present, identified the interests of the status quo as in conflict with concerted global action to deal with environmental problems, that position may no longer be tenable. Climate change and other looming ecological crises - not the efforts to deal with them - in fact pose the greater existential threat to the current global order, and American political elites are beginning to understand the need to address them. Thus, the nominees of both major American political parties expressed strong rhetorical support for efforts to deal with climate change in 2008, and a comprehensive cap-and-trade bill passed the House, but not the Senate, in 2009. n98 For a hegemonic power to convince other states to cooperate on its terms, however, it must be able to make credible commitments. Otherwise, the world will remain all too aware of the power of the hegemon to renege after the fact. n99 The U.S.'s need for credibility on the world stage derives not only from [\*416] structural factors. Though America's image in the world has rebounded substantially since the election of President Obama, n100 it was held in much lower esteem just one year ago. n101 And its perceived flouting of international norms was an important contributor to that decline. n102 The Bush administration's salient decisions to opt out of multilateral efforts, including "unsigning" the Rome Statute of the International Criminal Court, withdrawal from the Anti-Ballistic Missile Treaty, and non-participation in the Kyoto process are unlikely to be completely overlooked by global leaders considering long-term reciprocal cooperation with the United States, Obama's recent charm offensives notwithstanding. The international community is painfully aware of the periodic willingness of the political branches - particularly the executive - in the United States to spurn international obligations when interests so dictate. Many point out, however, that these manifestations of United States "exceptionalism" consisted not in noncompliance - violation of a binding legal norm - but rather in perfectly legal decisions to opt out of international processes. n103 The point is true for what it is worth, but prominent instances of U.S. noncompliance with binding legal norms are, nonetheless, fairly easy to identify. One of these instances of noncompliance is the requirement of consular notification in the Vienna Convention on Consular Relations. n104 In Medellin v. Texas, n105 the Supreme Court held that the state of Texas was not bound to refrain from executing Ernesto Medellin, even though the United States was indisputably in breach of its obligations under that treaty. n106 Domestic considerations of federalism and procedural default, therefore, trumped international compliance, much to the dismay of Mexico and many others in the international community. n107 Domestic procedural law also, [\*417] arguably, trumped international obligations for some time in the case of the prisoners of the war on terror held at Guantanamo. With respect to those individuals, the protections of the Geneva Conventions were undone - or at least very significantly delayed - by the jurisdictional requirements of U.S. law. n108 Comprehensive treatment of these controversies is beyond the scope of this paper, but the basic point is clear: the U.S.'s prospective negotiating partners are likely to be attentive to the risk that procedural hurdles - like strict standing - will undermine U.S. compliance in the environmental arena as well. V. Conclusion Several unresolved questions about Article III standing have important implications for the viability and effectiveness of citizen suits in environmental cases. If courts continue the recent trend of allowing procedural doctrines to restrict these suits, the shift may have important international repercussions which have not yet been fully reckoned with. Most important among these is that the unavailability of domestic enforcement of environmental laws through citizen suits will tend to undermine compliance with international environmental obligations. Both the negotiating position of the United States and the prospects for effective cooperation on the most pressing environmental issues facing humanity will suffer accordingly.

#### Courts action key to international agreements – key to international norms and cooperation

Long 8 – Professor of Law @ Florida Coastal School of Law [Andrew Long, “International Consensus and U.S. Climate Change Litigation,” 33 Wm. & Mary Envtl. L. & Pol'y Rev. 177, Volume 33 | Issue 1 Article 4 (2008)

1. Enhancing U.S. International Leadership In a time of unfavorable global opinion toward the United States, explicit judicial involvement with international norms will move the United States **closer to the international community** by acknowledging the relevance of international environmental norms for our legal system. As in other contexts, explicit **judicial internalization of climate change norms would "build**[ ] **U.S. 'soft power,**' [enhance] its moral authority, and strengthen[ ] U.S. capacity for global leadership"2 °3 on climate change, and other global issues. More specifically, domestic judicial consideration of the global climate regime would reaffirm that although the United States has rejected Kyoto, we take the obligation to respect the global commons seriously by recognizing that obligation as a facet of the domestic legal system. U.S. courts' overall failure to interact with the international climate regime, as in other issue areas, has "serious consequences for their roles in international norm creation."2" As judicial understandings of climate change law converge, the early and consistent contributors to the transnational judicial dialogue will likely play the strongest role in shaping the emerging international normative consensus.2"' As Justice L'Heureux- Dube of the Canadian Supreme Court noted in an article describing the decline of the U.S. Supreme Court's global influence, "[decisions which look only inward ... have less relevance to those outside that jurisdiction." °6 Thus, if U.S. courts hope to participate in shaping the normative position on climate change adopted by judiciaries throughout the world, explicit recognition of the relationship between domestic and international law is vital. With climate change in particular, norm development through domestic application should be an important aspect of global learning. The problem requires a global solution beyond the scope of any prior multilateral environmental agreements. This provides a situation in which U.S. judicial reasoning in applying aspects of climate regime thinking to concrete problems will fall into fertile international policy soil. Accordingly, the recognition of international norms in **domestic climate change litigation may play a strengthening role in the perception of U.S. leadership**, encourage U.S. development and exportation of effective domestic climate strategies, and promote international agreements that will enhance consistency with such approaches. In short, explicit judicial discussion of international climate change norms as harmonious with U.S. law can **enhance U.S. ability to regain** a **global leadership** position on the issue and, thereby, more significantly shape the future of the international climate regime. 2. Promoting the Effectiveness of the International Response Along with promoting U.S. interests and standing in the international community, climate change litigation has a direct role to play in developing the international regime if courts directly engage that regime." 7 Just as the United States as an actor may benefit from acknowledging and applying international norms, the regime in which the actions occur will benefit through application and acceptance. Indeed, a case such as Massachusetts v. EPA that directly engages only domestic law can nonetheless be understood to impact international lawmaking by considering its actors."' More important, however, will be cases in which the domestic judiciary gives life to international agreements through direct engagement-a "role [that] is particularly important as a check on the delegitimization of international legal rules that are not enforced."" 9 Assuming, as we must in the arena of climate change, that international law can only effect significant changes in behavior through penetration of the domestic sphere, domestic litigation that employs international law not only provides an instance in which the international appears effective but, more importantly, molds it into a shape that will enable further use in domestic cases or suggest necessary changes internationally. By engaging the international, domestic cases can also provide articulation for the norms that have emerged. The precise meaning of the UNFCCC obligation that nations take measures must be hammered out on the ground. In the United States, if Congress has not acted, it is appropriate for the courts to begin this process by measuring particular actions against the standard. 3. Encouraging Consistency in Domestic Law and Policy In the absence of national climate change law and policy, explicit discussion of international sources and norms in litigation will provide a well-developed baseline for a uniform judicial approach in the domestic realm. This could occur both within and beyond the United States. Within the United States, bringing international environmental law into the mix of judicial reasoning would provide common grounding that unifies the decisions and begins to construct a more systematic preference for development of an effective legal response to international threats. Specifically, if an international climate change norm is found relevant to interpretation of a domestic statute, reference will be appropriate to that norm when future questions of interpretation of the domestic statute arise.210 Thus, to the extent that climate change cases rely upon consensus concerning the scientific evidence of climate change, future cases should use that consensus as a measuring stick for claims of scientific uncertainty.2n The same can occur with norm development. For example, had the Court in Massachusetts tied its jurisdictional or substantive holding to an identifiable norm, the opinion would have greater clarity and value as a precedent in other contexts within the United States. Outside the United States, this approach would provide value to other, more transnationally oriented domestic courts.212 This would serve a norm entrepreneurship function and likely increase agreement among domestic courts on how to approach climate change issues raised under statutes designed for other purposes. 4. Enabling a Check at the Domestic-International Interface Finally, climate change litigation has something to offer for the growth of administrative law at the interface of domestic and international law. At least two points are noteworthy. First, U.S. courts can serve a unique function of providing legal accountability for U.S. failure to honor its UNFCCC commitments.213 Although this might be achieved implicitly, arguably the approach of Massachusetts, doing so explicitly would provide a check of a different magnitude. An explicit check here would serve the purposes identified above, as well as offering the practical benefit of increasing compliance. The dualist tradition, and perhaps concerns of domestic political backlash, weigh against grounding a decision solely in the UNFCC. However, looking to it as a major point in a narrative defining the development of a partly domestic obligation to take national action for the redress of climate change would serve the same beneficial purpose. This approach has the advantage of building a significant bridge over the dualist divide between domestic and international law without ripping the Court's analysis from traditional, dualist moorings. Pg. 212-216

#### Warming causes extinction

Mazo 10 (Jeffrey Mazo – PhD in Paleoclimatology from UCLA, Managing Editor, Survival and Research Fellow for Environmental Security and Science Policy at the International Institute for Strategic Studies in London, 3-2010, “Climate Conflict: How global warming threatens security and what to do about it,” pg. 122)

The best estimates for global warming to the end of the century range from 2.5-4.~C above pre-industrial levels, depending on the scenario. Even in the best-case scenario, the low end of the likely range is 1.goC, and in the worst 'business as usual' projections, which actual emissions have been matching, the range of likely warming runs from 3.1--7.1°C. Even keeping emissions at constant 2000 levels (which have already been exceeded), global temperature would still be expected to reach 1.2°C (O'9""1.5°C)above pre-industrial levels by the end of the century." Without early and severe reductions in emissions, the effects of climate change in the second half of the twenty-first century are likely to be catastrophic for the stability and security of countries in the developing world - not to mention the associated human tragedy. Climate change could even undermine the strength and stability of emerging and advanced economies, beyond the knock-on effects on security of widespread state failure and collapse in developing countries.' And although they have been condemned as melodramatic and alarmist, many informed observers believe that unmitigated climate change beyond the end of the century could pose an existential threat to civilisation." What is certain is that there is no precedent in human experience for such rapid change or such climatic conditions, and even in the best case adaptation to these extremes would mean profound social, cultural and political changes

#### No adaptation – causes all impacts

Roberts 13—citing the World Bank Review’s compilation of climate studies

David, “If you aren’t alarmed about climate, you aren’t paying attention” [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/] January 10 //mtc

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent World Bank review of the science reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6 degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

#### Best science proves warming is real and anthropogenic

Muller 12 (Richard A., professor of physics at the University of California, Berkeley, and a former MacArthur Foundation fellow, “The Conversion of a Climate-Change Skeptic,” 7-28-12, <http://www.nytimes.com/2012/07/30/opinion/the-conversion-of-a-climate-change-skeptic.html?_r=2&pagewanted=all>)

CALL me a converted skeptic. Three years ago I identified problems in previous climate studies that, in my mind, threw doubt on the very existence of global warming. Last year, following an intensive research effort involving a dozen scientists, I concluded that global warming was real and that the prior estimates of the rate of warming were correct. I’m now going a step further: Humans are almost entirely the cause. My total turnaround, in such a short time, is the result of careful and objective analysis by the Berkeley Earth Surface Temperature project, which I founded with my daughter Elizabeth. Our results show that the average temperature of the earth’s land has risen by two and a half degrees Fahrenheit over the past 250 years, including an increase of one and a half degrees over the most recent 50 years. Moreover, it appears likely that essentially all of this increase results from the human emission of greenhouse gases. These findings are stronger than those of the Intergovernmental Panel on Climate Change, the United Nations group that defines the scientific and diplomatic consensus on global warming. In its 2007 report, the I.P.C.C. concluded only that most of the warming of the prior 50 years could be attributed to humans. It was possible, according to the I.P.C.C. consensus statement, that the warming before 1956 could be because of changes in solar activity, and that even a substantial part of the more recent warming could be natural. Our Berkeley Earth approach used sophisticated statistical methods developed largely by our lead scientist, Robert Rohde, which allowed us to determine earth land temperature much further back in time. We carefully studied issues raised by skeptics: biases from urban heating (we duplicated our results using rural data alone), from data selection (prior groups selected fewer than 20 percent of the available temperature stations; we used virtually 100 percent), from poor station quality (we separately analyzed good stations and poor ones) and from human intervention and data adjustment (our work is completely automated and hands-off). In our papers we demonstrate that none of these potentially troublesome effects unduly biased our conclusions. The historic temperature pattern we observed has abrupt dips that match the emissions of known explosive volcanic eruptions; the particulates from such events reflect sunlight, make for beautiful sunsets and cool the earth’s surface for a few years. There are small, rapid variations attributable to El Niño and other ocean currents such as the Gulf Stream; because of such oscillations, the “flattening” of the recent temperature rise that some people claim is not, in our view, statistically significant. What has caused the gradual but systematic rise of two and a half degrees? We tried fitting the shape to simple math functions (exponentials, polynomials), to solar activity and even to rising functions like world population. By far the best match was to the record of atmospheric carbon dioxide, measured from atmospheric samples and air trapped in polar ice. Just as important, our record is long enough that we could search for the fingerprint of solar variability, based on the historical record of sunspots. That fingerprint is absent. Although the I.P.C.C. allowed for the possibility that variations in sunlight could have ended the “Little Ice Age,” a period of cooling from the 14th century to about 1850, our data argues strongly that the temperature rise of the past 250 years cannot be attributed to solar changes. This conclusion is, in retrospect, not too surprising; we’ve learned from satellite measurements that solar activity changes the brightness of the sun very little.

#### Not inevitable – it’s immediately reversible and there is no time lag

Desjardins 13 – member of Concordia university Media Relations Department, academic writer, citing Damon Matthews; associate professor of the Department of Geography, Planning and Environment at Concordia University, PhD, Member of the Global Environmental and Climate Change Center

(Cléa, “Global Warming: Irreversible but Not Inevitable,” http://www.concordia.ca/now/what-we-do/research/20130402/global-warming-irreversible-but-not-inevitable.php)

Carbon dioxide emission cuts will immediately affect the rate of future global warming Concordia and MIT researchers show Montreal, April 2, 2013 – There is a persistent misconception among both scientists and the public that there is a delay between emissions of carbon dioxide (CO2) and the climate’s response to those emissions. This misconception has led policy makers to argue that CO2 emission cuts implemented now will not affect the climate system for many decades. This erroneous line of argument makes the climate problem seem more intractable than it actually is, say Concordia University’s Damon Matthews and MIT’s Susan Solomon in a recent Science article. The researchers show that immediate decreases in CO2 emissions would in fact result in an immediate decrease in the rate of climate warming. Explains Matthews, professor in the Department of Geography, Planning and Environment, “If we can successfully decrease CO2 emissions in the near future, this change will be felt by the climate system when the emissions reductions are implemented – not in several decades." “The potential for a quick climate response to prompt cuts in CO2 emissions opens up the possibility that the climate benefits of emissions reductions would occur on the same timescale as the political decisions themselves.” In their paper, Matthews and Solomon, Ellen Swallow Richards professor of Atmospheric Chemistry and Climate Science, show that the onus for slowing the rate of global warming falls squarely on current efforts at reducing CO2 emissions, and the resulting future emissions that we produce. This means that there are critical implications for the equity of carbon emission choices currently being discussed internationally. Total emissions from developing countries may soon exceed those from developed nations. But developed countries are expected to maintain a far higher per-capita contribution to present and possible future warming. “This disparity clarifies the urgency for low-carbon technology investment and diffusion to enable developing countries to continue to develop,” says Matthews. “Emission cuts made now will have an immediate effect on the rate of global warming,” he asserts. “I see more hope for averting difficult-to-avoid negative impacts by accelerating advances in technology development and diffusion, than for averting climate system changes that are already inevitable. Given the enormous scope and complexity of the climate mitigation challenge, clarifying these points of hope is critical to motivate change.”

#### DOD compliance is perceived as ad hoc and self-interested – Court action is necessary to signal to the market a long-term commitment to energy efficiency

**Horton 11** [Laura, Doctor of Jurisprudence Candidate 2012, Golden Gate University School of Law, FUTURE FORCE SUSTAINABILITY: DEPARTMENT OF DEFENSE AND ENERGY EFFICIENCY IN A CHANGING CLIMATE, 2011 Golden Gate University Golden Gate University Environmental Law Journal Spring, 2011, L/N]

Immediately following the events of September 11, the political climate was not conducive to preserving environmental health when it would interfere with readiness training for troops **during wartime**. n130 During this time, the DOD made multiple attempts to escape from the purview of federal environmental regulations. n131 These attempts were explained in 2003 by former Defense Secretary Donald Rumsfeld as simply a way to "clarify environmental statutes which restrict access to, and sustainment of, training and test ranges essential for the readiness of our troops and the effectiveness of our weapons systems in the global war on terror." n132 Many, **even the Supreme Court**, shared the position that **national security** trumps environmental protection. n133 However, as the high-profile wars in Iraq and Afghanistan began to fade from mainstream attention, the DOD began contributing more to a public discussion on energy efficiency and various environmental problems such as climate change. Journalists, politicians, and people within the military structure itself, such as the Military Advisory Board in the CNA report, started discussing major changes in the DOD's current energy policies. n134 Mainstream media have started to pick up on the transition, [\*319] particularly in light of insurgent attacks on fuel-supply convoys in Afghanistan, where fuel is the number one DOD import. n135 Companies in the United States are being contracted to supply the troops with solar power equipment, including portable solar panels, solar chargers for electronic equipment, and other renewable technology. n136 Members of the military are hopeful that less dependence on fossil fuels will provide a safer atmosphere for soldiers by reducing the number of truck convoys that haul fuel to bases, thus reducing the number of attacks. n137 Besides providing assistance with alternative-energy projects for troops, the DOD's newfound interest in better funding for energy research and development is evident through solar installations, electric-vehicle purchases, and development of renewable fuel. n138 For example, the Army recently announced plans to develop smart microgrid technology, n139 which "can draw energy interchangeably from solar arrays and other sources to cut costs, improve logistics, and reduce troop safety risks involved in fossil fuel convoys." n140 These microgrids could potentially cut fuel consumption at an Army base by up to sixty percent. n141 The Air Force is also pursuing energy efficiency through the development of jet biofuel and has plans to certify its entire fleet to run on biofuels by 2011. n142 It is already running test flights with 50% biofuel [\*320] mixtures. n143 Since a majority of the fuel used by the DOD goes to military aircraft, n144 this could have an enormous impact on fossil-fuel use and total carbon dioxide emissions. Although there is conflicting evidence on whether biofuel production results in higher or lower total emissions, there are other studies that show the use of biofuels could reduce GHG emissions overall, since they burn cleaner and the amount of energy needed in production is decreasing. n145 Similarly, the Navy, which set a goal to have 50% of its power come from renewable sources by 2020, has been exploring the use of natural biocides to keep the hulls of ships clean. n146 Barnacles, algae and other marine biofilm, which cling to the hulls, can reduce a ship's fuel efficiency by up to 40%; therefore, keeping the hulls clean cuts down on the amount of operational fuel used in the military. n147 Not only does this particular project benefit the Navy in fuel and economic efficiency since other biocides are expensive, but it also protects sensitive marine life from the harmful chemical biocides that are normally used. n148 Small, individualized projects have also proven extremely effective. According to Dan Nolan, author of the DOD Energy Blog, the single most effective program for reducing energy consumption has been spray foam insulation of temporary structures in Iraq and Afghanistan. n149 The spray foam project has proven to be not only energy efficient but financially beneficial as well, saving the military over 100 million dollars per year. n150 In addition to seeking reduction in fossil-fuel use generally, the military is also actively reducing GHG emissions through "contracted landfill disposal, increased teleworking and less air travel." n151 Government contractors have also developed web-based GHG [\*321] inventories for Army installations that can be used to identify, quantify, and report emissions including carbon dioxide, nitrous oxide, methane, sulfur hexafluoride, hydro fluorocarbons, and per fluorocarbons. n152 C. An Ultimate Paradox As the world's largest consumer of energy, the military has a long way to go if it intends to achieve energy efficiency goals set by the government and the DOD itself. However, not everyone is convinced that the military will **follow through**, considering its **past environmental record.** n153 This skepticism is valid in light of the growing impact climate change has had on the planet and the extent to which the military has contributed to GHG emissions. n154 In addition, mistrust of the DOD's environmental record is warranted, since environmental damage from military activities still exists all over the United States n155 The suspect attitude toward military greening is akin to an attitude held by many concerning corporate "environmentalism" in the form of "**greenwashing**." n156 The military is **claiming to go "green**," and is indeed making strides in energy efficiency, while simultaneously **increasing oil** use by 1.5% annually through 2017. n157 Also, efficiency programs are limited to base installations and are not applied to **tactical** **fleets**, where much of the DOD's **fuel consumption occurs**. n158 Furthermore, little is said in any of the aforementioned reports about the many exemptions the DOD sought from numerous environmental laws over the past eight years. n159 The military is accustomed to approaching environmental protection on its own terms and is giving **mixed signals** about how [\*322] important energy efficiency will be in the near future. Consequently, there is a question as to how **self-imposed standards** such as voluntary compliance with federal energy efficiency standards, from which the DOD is otherwise exempt, will play out. n160 One example of the uncertainty of these programs can be found in a recent article in ClimateWire. n161 According to the article, the aforementioned spray foam insulation program has now been halted in the absence of advocacy for such programs. n162 The difficulty of relocating the foam tents and high disposal costs have led to the demise of spray foam use, and supporters are calling for a mandate to move forward with the project. n163 It is unclear whether the DOD will resume the program at all. The need for advocacy is especially important for the public to understand, because of the potential for **new energy technology** to transform the **civilian marketplace** as military technology finds its way into the public domain. n164 The military has begun to take the lead in energy efficiency, **drive the civilian sector** toward sustainable energy use, and push for "policy change to help make the necessary cultural shifts in how its people think about energy use and the decisions they make in all settings." n165 The more seriously the military takes energy efficiency, **the faster sustainable technology will reach the public**. For that reason, **progress on these efforts should be monitored** and documented for the public to review. A history of military brush-offs of the importance of environmental protection does not lend itself to a campaign of global stewardship. In order to win the confidence of the public, the military must demonstrate a willingness to follow through with the programs it has set in place **to lead alternative-energy development in the United States and the world.**

**U.S. leadership on the broader green tech transition is critical to solve warming**

**Klarevas 9** –Louis Klarevas, Professor for Center for Global Affairs @ New York University, 12/15, “Securing American Primacy While Tackling Climate Change: Toward a National Strategy of Greengemony,” http://www.huffingtonpost.com/louis-klarevas/securing-american-primacy\_b\_393223.html

As national leaders from around the world are gathering in Copenhagen, Denmark, to attend the United Nations Climate Change Conference, the time is ripe to re-assess America's current energy policies - but within the larger framework of how a new approach on the environment will stave off global warming and shore up American primacy. By not addressing climate change more aggressively and creatively, the United States is squandering an opportunity to secure its **global primacy** for the next few generations to come. To do this, though, the U.S. must rely on innovation to help the world escape the coming environmental meltdown. Developing the key technologies that will **save the planet from global warming** will allow the U.S. to **outmaneuver potential great power rivals** seeking to replace it as the international system's hegemon. But the greening of American strategy must occur soon. The U.S., however, seems to be stuck in time, unable to move beyond oil-centric geo-politics in any meaningful way. Often, the gridlock is portrayed as a partisan difference, with Republicans resisting action and Democrats pleading for action. This, though, is an unfair characterization as there are numerous proactive Republicans and quite a few reticent Democrats. The real divide is instead one between realists and liberals. Students of realpolitik, which still heavily guides American foreign policy, largely discount environmental issues as they are not seen as advancing national interests in a way that generates relative power advantages vis-à-vis the other major powers in the system: Russia, China, Japan, India, and the European Union. ¶ Liberals, on the other hand, have recognized that global warming might very well become the **greatest challenge ever faced by (hu)mankind**. As such, their thinking often eschews narrowly defined national interests for the greater global good. This, though, ruffles elected officials whose sworn obligation is, above all, to protect and promote American national interests. What both sides need to understand is that by becoming a lean, mean, green fighting machine, the U.S. can actually bring together liberals and realists to advance a collective interest which benefits every nation, while at the same time, securing America's global primacy well into the future. To do so, the U.S. must re-invent itself as not just your traditional hegemon, but as history's first ever green hegemon. Hegemons are countries that dominate the international system - bailing out other countries in times of global crisis, establishing and maintaining the most important international institutions, and covering the costs that result from free-riding and cheating global obligations. Since 1945, that role has been the purview of the United States. Immediately after World War II, Europe and Asia laid in ruin, the global economy required resuscitation, the countries of the free world needed security guarantees, and the entire system longed for a multilateral forum where global concerns could be addressed. The U.S., emerging the least scathed by the systemic crisis of fascism's rise, stepped up to the challenge and established the postwar (and current) liberal order. But don't let the world "liberal" fool you. While many nations benefited from America's new-found hegemony, the U.S. was driven largely by "realist" selfish national interests. The liberal order first and foremost benefited the U.S. With the U.S. becoming bogged down in places like Afghanistan and Iraq, running a record national debt, and failing to shore up the dollar, the future of American hegemony now seems to be facing a serious contest: potential rivals - acting like sharks smelling blood in the water - wish to challenge the U.S. on a variety of fronts. This has led numerous commentators to forecast the U.S.'s imminent fall from grace. Not all hope is lost however. With the impending systemic crisis of global warming on the horizon, the U.S. again finds itself in a position to address a transnational problem in a way that will benefit both the international community collectively and the U.S. selfishly. The current problem is two-fold. First, the competition for oil is fueling animosities between the major powers. The geopolitics of oil has already emboldened Russia in its 'near abroad' and China in far-off places like Africa and Latin America. As oil is a limited natural resource, a **nasty zero-sum contest could be looming** on the horizon for the U.S. and its major power rivals - a contest which threatens American primacy and **global stability**. Second, converting fossil fuels like oil to run national economies is producing irreversible harm in the form of carbon dioxide emissions. So long as the global economy remains oil-dependent, greenhouse gases will continue to rise. Experts are predicting as much as a 60% increase in carbon dioxide emissions in the next twenty-five years. That likely means more devastating water shortages, droughts, forest fires, floods, and storms. In other words, if global competition for access to energy resources does not **undermine international security**, **global warming will**. And in either case, oil will be a culprit for the instability. Oil arguably has been the most precious energy resource of the last half-century. But "black gold" is so 20th century. The key resource for this century will be green gold - clean, environmentally-friendly energy like wind, solar, and hydrogen power. Climate change leaves no alternative. And the sooner we realize this, the better off we will be. What Washington must do in order to avoid the traps of petropolitics is to convert the U.S. into the world's first-ever green hegemon. For starters, the federal government must drastically increase investment in energy and environmental research and development (E&E R&D). This will require a serious sacrifice, committing upwards of $40 billion annually to E&E R&D - a far cry from the few billion dollars currently being spent. By promoting a new national project, the U.S. could develop new technologies that will assure it does not drown in a pool of oil. Some solutions are already well known, such as raising fuel standards for automobiles; improving public transportation networks; and expanding nuclear and wind power sources. Others, however, have not progressed much beyond the drawing board: batteries that can store massive amounts of solar (and possibly even wind) power; efficient and cost-effective photovoltaic cells, crop-fuels, and hydrogen-based fuels; and even fusion. Such innovations will not only provide alternatives to oil, they will also give the U.S. an edge in the global competition for hegemony. If the U.S. is able to produce technologies that allow modern, globalized societies to escape the oil trap, those nations will eventually have no choice but to adopt such technologies. And this will give the U.S. a **tremendous economic boom**, while simultaneously providing it with means of leverage that can be employed to **keep potential foes in check**. The bottom-line is that the U.S. needs to become green energy dominant as opposed to black energy independent.

### 1AC – Biorelease

#### Contention 2 is Bioweapons

**The Court has ended broad deference to the executive but maintains environmental deference through a “national security” exemption to NEPA during wartime – court action key to reverse it**

**Donovan 11** (Emily Donovan, J.D., 2010, Albany Law School, Albany, New York, “Deferring to the Assertion of National Security: The Creation of a National Security Exemption Under the National Environmental Policy Act of 1969,” Winter 2011, West Northwest Journal of Environmental Law and Policy, 17 Hastings W.-N.W. J. Env. L. & Pol'y 3)

Furthermore, it is the **Court's responsibility** to ensure that the Executive is abiding by such laws, rather than creating its own. To do so, the Court must review the actions of agencies when challenged rather than simply **defer** to the judgments of such agencies, even in times of war. If the Court fails to do so, there is no check on the Executive's power; the Executive is free to disregard the limits that Congress has placed on it. n137 In **Hamdan** v. Rumsfeld, the U.S. Supreme Court properly refused to allow the Executive to ignore the limits on its power. n138 The Court held that "whether or not the President has independent power, absent congressional authorization, ... he **may not disregard limitations** that Congress has, in proper exercise of its own war powers, placed on his powers." n139 The Executive cannot use war as a justification for any and all action it desires to take. The Executive has certain powers while Congress has certain others, with a strict separation between the powers of each, as ""the power to make the necessary laws is in Congress; the power to execute in the President... . But neither can the President, in war more than in peace, intrude upon the proper authority of Congress, nor Congress upon the proper authority of the President.'" n140 Each branch of government must stay within the bounds of its power and must not usurp the powers of the other branches. If the Executive is allowed to do whatever it pleases in times of war, the notion of separation of powers, upon which this nation was founded, is destroyed. n141 In Hamdan, the Court would not allow this. At issue was the Executive's use of a military commission to try Hamdan, a Yemeni national captured by [\*25] militia forces in Afghanistan and then turned over to the U.S., for then-unspecified crimes, later designated as conspiracy "to commit ... offenses triable by military commission." n142 The Court found that no congressional act authorized the Executive to convene a military commission to try Hamdan, and "absent a more specific congressional authorization, the task of this Court is ... to decide whether Hamdan's military commission is so justified." n143 If the Executive's power to take action is not specifically authorized by Congress, the Court has a duty to examine the action to see if it is justified. **If the Court** instead simply **defers**, it allows the Executive **too much authority**, authority in excess of what was intended for it. In the absence of congressional authorization, the Executive must show that the act is necessary in order for the Court to permit it; the Executive failed to do so in Hamdan. n144 Because there was no congressional authorization for the Executive's action establishing a military commission and because the Executive failed to show necessity, the Court would not permit the action. The Court refused to simply defer to the Executive's judgment merely because it was during a **time of war**. Instead, the Court conducted the proper analysis and concluded that the Executive was overstepping its bounds; the fact that it was a time of war did not authorize the Executive to exceed its authority. n145 The U.S. Supreme Court also **refused to defer** to the Executive in Hamdi v. Rumsfeld, where it made clear its role in reviewing challenges. n146 The Court declared that it will give weight to the Executive's judgments during times of war, stating that "we accord the greatest respect and consideration to the judgments of military authorities in matters relating to the actual prosecution of a war ... ." n147 However, it explained that this does not mean that it will simply defer to the Executive. n148 Instead, it will review the Executive's actions. As the Court noted, "it does not infringe on the core role of the military for the courts to exercise their own time-honored and [\*26] constitutionally mandated roles of reviewing and resolving claims like those presented here." n149 The Court reviewed the Executive's decision to detain Hamdi, an American citizen classified as an "enemy combatant," indefinitely during the war with Afghanistan, without allowing him to challenge the basis for his detention. n150 The Court stated that "the threats to military operations posed by a basic system of independent review are not so weighty as to trump a **citizen's core rights to challenge** meaningfully the Government's case and to be heard by an impartial adjudicator." n151 In other words, the Court held that it would not refrain from reviewing the Executive's action merely because the Executive claimed that doing so would be a threat to its military operations; the threat to such operations does not trump a citizen's right to review. The Court stressed the importance of the doctrine of separation of powers and declared that "we have long since made clear that a state of war is **not a blank check** for the President when it comes to the rights of the Nation's citizens." n152 A state of war does not mean that the Executive can do whatever it pleases. And if it tries to do so, judicial review is the mechanism to stop it as "the Great Writ of habeas corpus allows the Judicial Branch to play a necessary role in maintaining this delicate balance of governance, serving as an important judicial check on the Executive's discretion in the realm of detentions." n153 If the Court defers to the Executive's decisions rather than engaging in the appropriate review, it allows the Executive's power to go unchecked, permitting the Executive to take actions that are not authorized by the Legislature. It is up to the Court to ensure that the Executive Branch is not creating its own laws, but rather is abiding by the laws as created by the Legislative Branch. IV. Congress Did Not Intend to Add a National Security Exemption to NEPA The Legislative Branch did not include a national security exemption under NEPA. n154 It did, on the other hand, create exemptions for national security under other environmental laws, including the Clean Air Act, n155 the [\*27] Clean Water Act, n156 the Coastal Zone Management Act ("CZMA"), n157 the Endangered Species Act, n158 and the Marine Mammal Protection Act ("MMPA"). n159 Therefore, if Congress intended a national security exemption to NEPA, it would have included it in the statute as it did with all of the other environmental statutes. Because the scope of NEPA is broad, it may overlap with these other statutes at times, as it did in Winter, where the MMPA and the CZMA were also at issue. However, when an agency is granted a national security exemption under a different statute that explicitly allows for it, as was the Navy in Winter, its duties under NEPA should not be affected. An agency that is exempted, for example, from a rule that says it cannot take a marine mammal (MMPA), does not necessarily have to be exempted from a rule that says it must prepare an EIS before engaging in an activity that will result in the taking of a marine mammal (NEPA). It is one thing to be allowed to take a marine mammal and another to have to consider the environmental impacts of taking the mammal before doing so. In fact, this is **the essence of NEPA**: agencies must consider the environmental impacts of their actions **before engaging in them**, allowing them to discover and take steps to lessen the impacts if they so choose, but will not be required to effect any substantive result. Therefore, the grant of an exemption to a substantive statute, like the MMPA, should not affect an agency's duty to comply with the procedural statute, NEPA. The goal is that, after considering the impacts of the proposed action under NEPA, the agency will either decide not to take the action or to implement mitigation measures to lessen the environmental impacts of the action, even though it is permitted to take the action under the national security exemption to the substantive statute. Because Congress did not include a national security exemption under NEPA, the agencies of the Executive Branch must abide by it, even in times of war, and the courts cannot take it upon themselves to except these agencies from doing so. n160 Instead, the courts must give effect to what Congress enacted. As the Maryland Court of Appeals stated, "we are obliged to ascertain and carry out the legislative intent; to consider the language of the enactment in its natural and ordinary signification; to not insert or omit words to make a statute express an intention not evidenced in [\*28] its original form." n161 Courts cannot substitute their own opinions of what the law should be for what the law says; they must apply the law as it is stated. And, as stated, NEPA does not include a national security exemption. If Congress does intend a national security exemption to exist in NEPA, it must write this into the statute, but until then it is not within the Court's authority to create such an exemption. n162 V. Conclusion By deferring to the agencies of the Executive Branch in determining whether to grant injunctive relief in NEPA noncompliance cases, the Court ignores its duty to act as a check on the Executive's power and instead grants the Executive an exemption from NEPA. When injunctive relief is requested, the **Court is required to give due weight** to each competing harm and grant relief to the party toward whom equity tips. This means that, in NEPA noncompliance cases where national security is asserted as a defense, courts must balance the harm to the environment against the harm to national security. When courts ignore their duty to conduct this balancing and instead defer to the assertion of national security, they create a national security exemption to NEPA, one which the legislature did not include or intend. The agencies of the Executive Branch serve an important role and the preservation of national security is of extreme importance, but environmental impacts from the actions of these agencies can be just as significant; the effects of agency action on our health and safety can be just as damning as the absence of action on the preservation of national security. **Courts must not**, without first examining the environmental effects, deny **injunctive relief** any time an agency claims that an injunction will prevent it from protecting **national security**. When an agency's proposed action is in the interest of national security and compliance with NEPA would truly cause a delay that would impede the agency's ability to protect and preserve national security, an exception to NEPA compliance may be justified. But a court cannot decide if this is true without first weighing the competing harms. Courts must explore the truth of the national security [\*29] assertion to ensure that it is not being used merely as a pretext to avoid complying with NEPA. NEPA serves as an important check on agency action. It forces agencies to consider the consequences of and alternatives to their actions, in turn leading to substantive changes in decision-making. NEPA's EIS requirements also serve to **inform the public** and to **create records** which courts can review in determining challenges for noncompliance. While the agencies of the Executive Branch may play a crucial role in the protection and preservation of our national security, this should not give them a free pass to escape NEPA compliance; it is important for them to consider the environmental impacts of their proposed actions. The Legislature did not intend to exempt agencies in the business of protecting national security from NEPA. If it did, it would have written a national security exemption into the statute, just as it wrote one into other major environmental statutes. If a national security exemption to NEPA is the Legislature's intent, the Legislature should write it into the statute. But unless and until Congress writes a national security exemption into NEPA, courts have a duty to conduct the **appropriate balancing** in determining whether to grant **injunctive relief** in NEPA **noncompliance cases** rather than merely giving it lip service in order to refrain from creating an exemption which Congress did not intend.

**National security** **exemptions to NEPA guts enforcement and signals the court apathy - the impact biodiversity**

**Krueger 9** (William, J.D., University of North Carolina School of Law, Legal Aid of North Carolina, Department of Environment & Natural Resources, North Carolina Journal Of Law &Technology Volume 10,Issue 2: Spring 2009 “In The Navy: The Future Strength Of Preliminary Injunctions Under NEPA In Light Of NRDC v. Winter”)

Since the 1970s, many laws have been passed with the overarching goal of protecting the environment.2 Without **proper enforcement** of environmental protection laws, the environment will likely suffer from increased **pollution** levels and less **biological diversity**. Therefore, it is critical to ensure that these laws are enforced. A person or agency with proper standing can bring a citizen suit to enforce environmental protection laws against alleged perpetrators.3 To ensure that the perpetrator does not continue to harm the environment while the action is pending in court, the plaintiff will often seek a preliminary injunction4 to force the perpetrator to stop or alter his environmentally detrimental practices.5 Without the **preliminary injunction**, enforcement of environmental statutes would be much more difficult. On November 12, 2008, the Supreme Court handed down its decision in Winter v. Natural Resources Defense Council. 6 The Court’s primary concern in this case was whether a preliminary injunction which forbade the Navy’s use of mid-frequency active (“MFA”) sonar7 during certain portions of its submarine training exercises off the coast of southern California was properly issued.8 The injunction was sought by the National Resources Defense Council (NRDC),9 a handful of other environmental interest groups, and several concerned citizens. The injunction was granted by the United States District Court for the Central District of California on January 3, 2008,10 and upheld by the Court of Appeals for the Ninth Circuit on February 29, 2008.11 The district court granted the injunction because the Navy failed to comply with the requirements of the National Environmental Policy Act (NEPA).12 Specifically, the Navy failed to prepare an adequate Environmental Assessment (EA)13 or a subsequent Environmental Impact Statement (EIS),14 both of which must be prepared for proposed “major Federal actions significantly affecting the human environment.”15 The injunction imposed several restrictions on the Navy’s ability to use its MFA sonar in training exercises.16 The Navy eventually appealed to the Supreme Court, which published three very divided opinions.17 The Roberts majority opined that the environmentalists’ interests were “plainly outweighed by the Navy’s need to conduct realistic training exercises.”18 The majority focused on two primary factors before holding that the district court had abused its discretion by granting a preliminary injunction.19 First, the Court challenged the level of probability that the district court assigned to the likelihood of the plaintiffs’ success at trial.20 Second, the Court felt that neither the district court nor the Ninth Circuit adequately considered the balance of equities between the plaintiffs and the Navy.21 For these two reasons, the Court held that the district court abused its discretion by imposing the injunctive measures challenged here by the Navy.22 Therefore, the Court vacated the portion of the district court’s injunction that the Navy challenged.23 There were two other opinions which differed from the majority. Justice Bryer, concurring in part and dissenting in part, believed that the proper solution was an injunction restricting the Navy’s use of MFA. However, the injunction should not be as stringent as the district court’s original injunction.24 On the other hand, Justice Ginsburg, who dissented, would have affirmed the lower courts’ decisions and upheld the district court’s injunction.25 Her dissent focused on the “central question” of “whether the Navy must prepare an [EIS].”26 Justice Ginsburg believed that by attempting to circumvent the NEPA process, the Navy’s actions in this case **“undermined NEPA”** by appealing to the Council on Environmental Quality (CEQ), a division of **the White House**.27 The outcome of this case is both unfortunate and improper. Its result is a signal that **the Court** is likely to continue to give **extraordinary deference** to the military in **environmental cases** which may involve matters of national security, without any attempt to look into the circumstances of the military’s assertions of national security interests. This case also shows how easy it has become for agencies, particularly military branches, to avoid adhering to laws like NEPA. Courts should be more willing to grant preliminary injunctions when it comes to NEPA enforcement actions, lest agencies be allowed to do as they will without any regard to the **rule of law.** Without more **stringent NEPA enforcement** by the courts, the Act’s purposes of “sensitiz[ing] … federal agencies to the environment” and “foster[ing] precious **resource preservation**” will be thwarted.28

**Biodiversity decline causes extinction**

**Mmom 8** (Dr. Prince Chinedu, University of Port Harcourt (Nigeria), “Rapid Decline in Biodiversity: A Threat to Survival of Humankind”, Earthwork Times, 12-8, http://www.environmental-expert.com/resultEachArticle.aspx?ci d=0&codi=51543)

From the foregoing, it becomes obvious that the **survival** of Humankind **depends on** the continuous existence and conservation of **biodiversity**. In other words, a threat to biodiversity is a serious threat to the survival of Human Race. To this end, biological diversity must be treated more seriously as a **global resource**, to be indexed, used, and above all, preserved. Three circumstances conspire to give this matter an unprecedented urgency. First, exploding human populations are degrading the environment at an accelerating rate, especially in tropical countries. Second, science is discovering new uses for biological diversity in ways that can relieve both human suffering and environmental destruction. Third, much of the diversity is being irreversibly lost through extinction caused by the destruction of natural habitats due to development pressure and oil spillage, especially in the Niger Delta. In fact, Loss of biodiversity is significant in several respects. First, breaking of **critical links** in the biological chain can disrupt the functioning of an **entire ecosystem** and its **biogeochemical cycles**. This disruption may have significant effects on larger scale processes. Second, loss of species can have impacts on the organism pool from which medicines and pharmaceuticals can be derived. Third, loss of species can result in loss of genetic material, which is needed to replenish the genetic diversity of domesticated plants that are the **basis of world agriculture** (Convention on Biological Diversity). Overall, we are locked into a race. We must hurry to acquire the knowledge on which a wise policy of conservation and development can be based for centuries to come.

#### Biodefense contractors use the national security exemption in NEPA to overlook safety concerns – results in pathogen spread and accidental release

Taylor 12 (David Chase Taylor, Degrees from San Diego State University, PhD Student at the University of Lugano, Switzerland, *The Bio-Terror Bible*, Part 3, p. 25)

Southern Research Institute, the military biodefense contractor recently in the news for sending live anthrax to the Children's Hospital of Oakland (CA), is also in charge of safety and security for a major new $30 million biodefense facility being built at the Department of Energy's Argonne National Laboratory near Chicago. The new Ricketts Regional Biocontainment Laboratory is funded by the National Institute of Allergy and Infectious Disease (NIAID) and is named after Howard T. Ricketts, a celebrated pathologist who acquired typhus in the course of research and died at age 39. It will begin biodefense work with studies of anthrax (Ames strain) and Yersinia pestis, the causative agent of plague. Southern Research Institute, with major labs of its own in Frederick, Maryland and Birmingham, Alabama, has a $75 million annual budget including biodefense contracts from an impressive roster of Pentagon agencies. Its Frederick, Maryland facility is located near the Army's biological weapons research headquarters at Fort Detrick, yet despite its biodefense prominence, Southern Research in Frederick does not maintain an institutional biosafety committee that complies with federal research rules. (And Southern Research in Birmingham has not honored requests for records of its institutional biosafety committee.) "Southern Research's incompetence is plain to see. Its own house is in dangerous disarray and does not comply with federal research rules," said Edward Hammond, Director of the Sunshine Project. "That threat is bad enough; but even after leaking anthrax, the institute is still developing biosafety and operating procedures for new high containment labs." According to a national coalition of biodefense watchdogs, formed in 2002 to monitor the US biodefense program, the Southern Research situation epitomizes their concern that biodefense laboratories are proliferating unsafely and with unsound planning, and that this could result in health, environment, and international security problems. The watchdogs also point to Southern Research's links to classified biodefense research. (Southern Research's facilities and personnel have "secret" clearance.) "Public interest groups seeking information about military biodefense programs are being stonewalled by the Army and other agencies." says Steve Erickson of Citizen's Education Project in Salt Lake City, which monitors the Army's Dugway Proving Ground. "That Southern Research and other secretive military contractors are also insinuating themselves into civilian biodefense programs is cause for concern that we are witnessing a steady erosion of openness and accountability, not only at Pentagon labs; but at academic institutions and in work funded by the National Institutes of Health." Two other Department of Energy (DOE) labs that design and develop the nation's nuclear weapons are also building new biosafety level three biodefense facilities. Both Lawrence Livermore and Los Alamos Labs have been sued by local community groups under the National Environmental Policy Act (NEPA). Inga Olson, Program Director at Tri-Valley CAREs, one of the groups that sued DOE, warns "Biodefense dollars are flowing like champagne at a wedding - into everywhere from nuclear weapons labs to children's hospitals - everyone wants a piece of the action. But a far more sober look is needed at whether the rapid spread of labs, pathogens, and bioweapons knowledge poses a greater threat than the problem we are trying to solve."

#### Addressing the court generated “National Security” exemption to NEPA is crucial to bio-weapons lab safety

Miles 8 (Loulena Miles, Associate at Adams Broadwell Joseph & Cardozo, Degrees from University of California at Santa Cruz, “Final Site-Wide Environmental Impact Statement for Continued Operation of Los Alamos National Laboratory, Los Alamos, New Mexico: Comment on the SWEIS,” <http://energy.gov/sites/prod/files/EIS-0380-FEIS-03-2-2008.pdf>)

NEPA has the twin aims of obligating a federal agency to consider environmental impacts before undertaking or approving a proposed action, and ensuring that the public is informed. The draft SWEIS is inadequate under the National Environmental Policy Act because it lacks a “hard look” at the impacts of a possible terrorist attack. There is no “national security” exemption from NEPA. Allowing a “security exemption” from NEPA would be inconsistent with one of NEPA’s purposes: to ensure that the public can contribute to the body of information being considered by the agency. The recent Mother’s for Peace decision in the 9th Circuit Court of Appeals held that if the risk of a terrorist attack is signiﬁ cant (which it is at Los Alamos) then NEPA requires taking a “hard look” at the environmental consequences of a terrorist attack. Please revise your draft SWEIS and re-release it so that that public will have an opportunity to comment on this important aspect of the required NEPA analysis. BSL-3 and/or BSL-4 Laboratory Space The Department of Energy is going full speed ahead in building more and more biodefense labs and facilities, including the one being reviewed at the Los Alamos National Lab. All of this work is going forward without a national plan that assesses where these labs should be, what their role is, how many are really needed, methods of oversight, transparency, and reporting requirements. A NEPA document is urgently needed to assess these issues in a forum where the public can comment. We believe Homeland Security should not be locating these advanced biodefense facilities inside nuclear weapons labs because it cloaks this work in a veil of secrecy and creates a “perception problem” whereas other countries could assume we’re conducting offensive research and / or may choose to collocate their advance biodefense research inside their nuclear weapons facilities.

#### Engineered pathogens cause extinction

**Sandberg et al 8**—Research Fellow at the Future of Humanity Institute at Oxford University. PhD in computation neuroscience, Stockholm—AND—Jason G. Matheny—PhD candidate in Health Policy and Management at Johns Hopkins. special consultant to the Center for Biosecurity at the University of Pittsburgh—AND—Milan M. Ćirković—senior research associate at the Astronomical Observatory of Belgrade. Assistant professor of physics at the University of Novi Sad. (Anders, How can we reduce the risk of human extinction?, 9 September 2008, http://www.thebulletin.org/web-edition/features/how-can-we-reduce-the-risk-of-human-extinction)

The risks from anthropogenic hazards appear at present larger than those from natural ones. Although great progress has been made in reducing the number of nuclear weapons in the world, humanity is still threatened by the possibility of a global thermonuclear war and a resulting nuclear winter. We may face even greater risks from emerging technologies. Advances in synthetic biology might make it possible to engineer pathogens capable of extinction-level pandemics. The knowledge, equipment, and materials needed to engineer pathogens are more accessible than those needed to build nuclear weapons. And unlike other weapons, pathogens are self-replicating, allowing a small arsenal to become exponentially destructive. Pathogens have been implicated in the extinctions of many wild species. Although most pandemics "fade out" by reducing the density of susceptible populations, pathogens with wide host ranges in multiple species can reach even isolated individuals. The intentional or unintentional release of engineered pathogens with high transmissibility, latency, and lethality might be capable of causing human extinction. While such an event seems unlikely today, the likelihood may increase as biotechnologies continue to improve at a rate rivaling Moore's Law.

#### Use is likely

Wheelis 13 (Dr. Mark Wheelis, Chair, Scientists Working Group on Biological and Chemical Weapons, “Biological and Chemical Weapons,” The Center for Arms Control and Non-Proliferation, Issues, 2013, <http://armscontrolcenter.org/issues/biochem/>)

At the same time, however, the dramatic growth in biodefense research has some significant downsides. For instance, the large expansion in the number of institutions and individuals working with dangerous biological weapons agents, many without previous experience, is increasing the risk of dangerous pathogens being released accidentally from the laboratory. It is also giving thousands of individuals access to materials, technologies, knowledge, and skills that could be used for biological weapons attacks. Increased biodefense research in the United States appears to be encouraging increased biodefense research around the world. Such research is precisely the type that raises the greatest dual-use concerns. Of most concern in this regard is the growing amount of research aimed at exploring potential offensive aspects and applications of biotechnology. Such activities could very easily generate the very dangers they are designed to protect against. Even worse, because of their dual-use nature, biodefense activities undertaken as a hedge against technological surprise and the unpredictability of potential adversaries can generate significant uncertainty among outside observers about their true intent. This problem is most severe for threat assessment research, which is usually conducted in secret. Secrecy in biodefense is increasing, both in the U.S. and around the world. Secretive biodefense activities threaten to provoke a very real biological arms race as countries react to the suspected capabilities and activities of others and seek to anticipate and counter potential offensive developments by potential adversaries. A new biological arms race would be a disaster. It would greatly increase the danger that both states and terrorists alike will acquire and use biological weapons. The history of weapons proliferation indicates a flow from the big powers to those with lesser resources. Rigorous state compliance with the ban on biological weapons is critical for preventing bioterrorism.

#### Regulated lab safety key to prevent accidental release of a super-bug – causes extinction

Wilson 13 (Grant Wilson, Deputy Director, Global Catastrophic Risk Institute. J.D. from Lewis & Clark Law School, “Minimizing Global Catastrophic and Existential Risks from Emerging Technologies through International Law,” Virginia Environmental Law Journal, 31 Va. Envtl. L.J. 307, 2013)

i. Risk of an accident The accidental release of a bioengineered microorganism during legitimate research poses a GCR/ER when such a microorganism has the potential to be highly deadly and has never been tested in an uncontrolled environment. n50 The threat of an accidental release of a harmful organism recently sparked an unprecedented scientific debate amongst policymakers, scientists, and the general public in reaction to the creation of an airborne strain of H5N1. n51 In September 2011, Ron Fouchier, a scientist from the Netherlands, announced that he had genetically engineered the H5N1 virus--his lab "mutated the hell out of H5N1," he professed--to become airborne, which was tested on ferrets; a laboratory at the University of Wisconsin-Madison similarly mutated the virus into a highly transmittable form. n52 The "natural" H5N1 killed approximately sixty percent of those with reported infections (although the large amount of unreported cases means that this is higher than the actual death rate), but the total number of fatalities--346 people--was relatively small because the virus is difficult to transmit from human to human. The larger risk comes from the possibility that a mutated virus would spread more easily amongst [\*318] humans, n53 which could result in a devastating flu pandemic amongst the worst in history, if not the very worst. n54 To put this in context, about one in every fifteen Americans--twenty million people--would die every year from a seasonal flu as virulent as a highly transmittable form of H5N1. n55 Lax regulations and a rapidly growing number of laboratories exacerbate the dangers posed by bioengineered organisms. While lab biosafety n56 guidelines in the United States and Europe recommended that projects like reengineering the H5N1 virus be conducted in a BSL-4 facility (the highest security level), neither laboratory that reengineered the H5N1 virus met this non-binding standard. n57 Meanwhile, a 2007 Government Accountability Office ("GAO") report indicated that BSL-3 and BSL-4 labs are rapidly expanding in the United States. While there is significant public information about laboratories that receive federal funding or are registered with the Centers for Disease Control and Prevention ("CDC") and the U.S. Department of Agriculture's ("USD") Select Agent Program, much less is known about the "location, activities, and ownership" of labs that are not federally funded and not registered with the CDC or the USD Select Agent Program. n58 The same report also concluded that no single U.S. agency is responsible for tracking and assessing the risks of labs engaging in bioengineering. n59 While some claim that critics are overreacting to the risk from this genetically engineered H5N1 virus, there have been a series of accidental releases of microbes from laboratories that demonstrate the risks of largely unregulated laboratory safety. In 1978, an employee died from an accidental smallpox release from a laboratory on the floor below her. n60 Many scientists believe that the global H1N1 ("swine flu") [\*319] outbreak in the late 2000s originated from an accidental release from a Chinese laboratory. n61 Reports concluded that the accidental releases of Severe Acute Respiratory Syndrome ("SARS") in Singapore, Taiwan, and China from BSL-3 and BSL-4 laboratories all resulted from a low standard of laboratory safety. n62 In the United States, a review by the Associated Press of more than one hundred laboratory accidents and lost shipments between 2003 and 2007 shows a pattern of poor oversight, reporting failures, and faulty procedures, specifically describing incidents at "44 labs in 24 states," including at high-security labs. n63 In 2007, an outbreak of Foot and Mouth Disease likely came from a laboratory that was the "only known location where the strain [was] held in the country" n64 because of a leaky pipe that had known problems. n65 This long history of faulty laboratory safety is why some experts, such as Rutgers University chemistry professor and bioweapons expert Richard H. Ebright, believe that the H5N1 virus will "inevitably escape, and within a decade," citing the hundreds of germs with potential use in bioweapons that have accidentally escaped from laboratories in the United States. n66 While the effects of such lapses in laboratory safety have not yet been felt aside from relatively small events such as the swine flu outbreak mentioned above, the increasing ability of less-sophisticated scientists to engineer more deadly organisms vastly increase the possibility that a lapse in biosafety will have detrimental effects. An accidental or purposeful release of a bioengineered organism has potentially grave consequences. For example, researchers in Australia recently accidentally developed a mousepox virus with a 100 percent [\*320] fatality rate when they had merely intended to sterilize the mice. n67 Scientists in the United States also created a "superbug" version of mousepox created to "evade vaccines," which they argue is important research to thwart terrorists, sparking a debate amongst scientists and policymakers about whether the benefits of such research is worth the associated risks. n68 If such a bioengineered organism escaped from a laboratory, the results would be unpredictable but potentially extremely deadly to humans and/or animals.

\*ER = Existential Risk

### 1AC – No War

#### Contention 3 is No War

#### Great power war is obsolete – globalization, nuclear deterrence, and the cooperative liberal order ensure no conflict

Ikenberry and Deudney 9 (Daniel – Professor of Politics and International Affairs at Princeton University, and G. John – professor of political science at Johns Hopkins University, Jan/Feb, “The Myth of the Autocratic Revival,” Foreign Affairs, Vol. 88, Issue 1, p. 8)

It is in combination with these factors that the regime divergence between autocracies and democracies will become increasingly dangerous. If all the states in the world were democracies, there would still be competition, but a world riven by a democratic-autocratic divergence promises to be even more conflictual. There are even signs of the emergence of an "autocrats international" in the Shanghai Cooperation Organization, made up of China, Russia, and the poorer and weaker Central Asian dictatorships. Overall, the autocratic revivalists paint the picture of an international system marked by rising levels of conflict and competition, a picture quite unlike the "end of history" vision of growing convergence and cooperation. This bleak outlook is based on an exaggeration of recent developments and ignores powerful countervailing factors and forces. Indeed, contrary to what trhe revivalists describe, the most striking features of the contemporary international landscape are the intensification of economic globalization, thickening institutions, and shared problems of interdependence. The overall structure of the international system today is quite unlike that of the nineteenth century. Compared to older orders, the contemporary liberal-centered international order provides a set of constraints and opportunities — of pushes and pulls — that reduce the likelihood of severe conflict while creating strong imperatives for cooperative problem solving. Those invoking the nineteenth century as a model for the twenty-first also fail to acknowledge the extent to which war as a path to conflict resolution and great-power expansion has become largely obsolete. Most important, nuclear weapons have transformed great-power war from a routine feature of international politics into an exercise in national suicide. With all of the great powers possessing nuclear weapons and ample means to rapidly expand their deterrent forces, warfare among these states has truly become an option of last resort. The prospect of such great losses has instilled in the great powers a level of caution and restraint that effectively precludes major revisionist efforts. Furthermore, the diffusion of small arms and the near universality of nationalism have severely limited the ability of great powers to conquer and occupy territory inhabited by resisting populations (as Algeria, Vietnam, Afghanistan, and now Iraq have demonstrated). Unlike during the days of empire building in the nineteenth century, states today cannot translate great asymmetries of power into effective territorial control; at most, they can hope for loose hegemonic relationships that require them to give something in return. Also unlike in the nineteenth century, today the density of trade, investment, and production networks across international borders raises even more the costs of war. A Chinese invasion of Taiwan, to take one of the most plausible cases of a future interstate war, would pose for the Chinese communist regime daunting economic costs, both domestic and international. Taken together, these changes in the economy of violence mean that the international system is far more primed for peace than the autocratic revivalists acknowledge. The autocratic revival thesis neglects other key features of the international system as well. In the nineteenth century, rising states faced an international environment in which they could reasonably expect to translate their growing clout into geopolitical changes that would benefit themselves. But in the twenty-first century, the status quo is much more difficult to overturn. Simple comparisons between China and the United States with regard to aggregate economic size and capability do not reflect the fact that the United States does not stand alone but rather is the head of a coalition of liberal capitalist states in Europe and East Asia whose aggregate assets far exceed those of China or even of a coalition of autocratic states. Moreover, potentially revisionist autocratic states, most notably China and Russia, are already substantial players and stakeholders in an ensemble of global institutions that make up the status quo, not least the UN Security Council (in which they have permanent seats and veto power). Many other global institutions, such as the International Monetary Fund and the World Bank, are configured in such a way that rising states can increase their voice only by buying into the institutions. The pathway to modernity for rising states is not outside and against the status quo but rather inside and through the flexible and accommodating institutions of the liberal international order. The fact that these autocracies are capitalist has profound implications for the nature of their international interests that point toward integration and accommodation in the future. The domestic viability of these regimes hinges on their ability to sustain high economic growth rates, which in turn is crucially dependent on international trade and investment; today's autocracies may be illiberal, but they remain fundamentally dependent on a liberal international capitalist system. It is not surprising that China made major domestic changes in order to join the WTO or that Russia is seeking to do so now. The dependence of autocratic capitalist states on foreign trade and investment means that they have a fundamental interest in maintaining an open, rulebased economic system. (Although these autocratic states do pursue bilateral trade and investment deals, particularly in energy and raw materials, this does not obviate their more basic dependence on and commitment to the WTO order.) In the case of China, because of its extensive dependence on industrial exports, the WTO may act as a vital bulwark against protectionist tendencies in importing states. Given their position in this system, which so serves their interests, the autocratic states are unlikely to become champions of an alternative global or regional economic order, let alone spoilers intent on seriously damaging the existing one. The prospects for revisionist behavior on the part of the capitalist autocracies are further reduced by the large and growing social networks across international borders. Not only have these states joined the world economy, but their people — particularly upwardly mobile and educated elites — have increasingly joined the world community. In large and growing numbers, citizens of autocratic capitalist states are participating in a sprawling array of transnational educational, business, and avocational networks. As individuals are socialized into the values and orientations of these networks, stark: "us versus them" cleavages become more difficult to generate and sustain. As the Harvard political scientist Alastair Iain Johnston has argued, China's ruling elite has also been socialized, as its foreign policy establishment has internalized the norms and practices of the international diplomatic community. China, far from cultivating causes for territorial dispute with its neighbors, has instead sought to resolve numerous historically inherited border conflicts, acting like a satisfied status quo state. These social and diplomatic processes and developments suggest that there are strong tendencies toward normalization operating here. Finally, there is an emerging set of global problems stemming from industrialism and economic globalization that will create common interests across states regardless of regime type. Autocratic China is as dependent on imported oil as are democratic Europe, India, Japan, and the United States, suggesting an alignment of interests against petroleum-exporting autocracies, such as Iran and Russia. These states share a common interest in price stability and supply security that could form the basis for a revitalization of the International Energy Agency, the consumer association created during the oil turmoil of the 1970s. The emergence of global warming and climate change as significant problems also suggests possibilities for alignments and cooperative ventures cutting across the autocratic-democratic divide. Like the United States, China is not only a major contributor to greenhouse gas accumulation but also likely to be a major victim of climate-induced desertification and coastal flooding. Its rapid industrialization and consequent pollution means that China, like other developed countries, will increasingly need to import technologies and innovative solutions for environmental management. Resource scarcity and environmental deterioration pose global threats that no state will be able to solve alone, thus placing a further premium on political integration and cooperative institution building. Analogies between the nineteenth century and the twenty-first are based on a severe mischaracterization of the actual conditions of the new era. The declining utility of war, the thickening of international transactions and institutions, and emerging resource and environmental interdependencies together undercut scenarios of international conflict and instability based on autocratic-democratic rivalry and autocratic revisionism. In fact, the conditions of the twenty-first century point to the renewed value of international integration and cooperation.

#### Nuclear deterrence checks – all states are rational

**Tepperman 9** (John - journalist based in New York Cuty, Why obama should learn to love the bomb, Newsweek, 9/7, p.lexis)

A growing and compelling body of research suggests that nuclear weapons may not, in fact, make the world more dangerous, as Obama and most people assume. The bomb may actually make us safer. In this era of rogue states and transnational terrorists, that idea sounds so obviously wrongheaded that few politicians or policymakers are willing to entertain it. But that's a mistake. Knowing the truth about nukes would have a profound impact on government policy. Obama's idealistic campaign, so out of character for a pragmatic administration, may be unlikely to get far (past presidents have tried and failed). But it's not even clear he should make the effort. There are more important measures the U.S. government can and should take to make the real world safer, and these mustn't be ignored in the name of a dreamy ideal (a nuke-free planet) that's both unrealistic and possibly undesirable. The argument that nuclear weapons can be agents of peace as well as destruction rests on two deceptively simple observations. First, nuclear weapons have not been used since 1945. Second, there's never been a nuclear, or even a nonnuclear, war between two states that possess them. Just stop for a second and think about that: it's hard to overstate how remarkable it is, especially given the singular viciousness of the 20th century. As Kenneth Waltz, the leading "nuclear optimist" and a professor emeritus of political science at UC Berkeley puts it, "We now have 64 years of experience since Hiroshima. It's striking and against all historical precedent that for that substantial period, there has not been any war among nuclear states." To understand why--and why the next 64 years are likely to play out the same way--you need to start by recognizing that all states are rational on some basic level. Their leaders may be stupid, petty, venal, even evil, but they tend to do things only when they're pretty sure they can get away with them. Take war: a country will start a fight only when it's almost certain it can get what it wants at an acceptable price. **Not even Hitler or Saddam** waged wars they didn't think they could win. The problem historically has been that leaders often make the wrong gamble and underestimate the other side--and millions of innocents pay the price. Nuclear weapons change all that by making the costs of war obvious, inevitable, and unacceptable. Suddenly, when both sides have the ability to turn the other to ashes with the push of a button--and everybody knows it--the basic math shifts. Even the craziest tin-pot dictator is forced to accept that war with a nuclear state is unwinnable and thus not worth the effort. As Waltz puts it, "**Why fight if you can't win and might lose everything**?" Why indeed? The iron logic of deterrence and mutually assured destruction is so compelling, it's led to what's known as the nuclear peace: the virtually unprecedented stretch since the end of World War II in which all the world's major powers have avoided coming to blows. They did fight proxy wars, ranging from Korea to Vietnam to Angola to Latin America. But these never matched the furious destruction of full-on, great-power war (World War II alone was responsible for some 50 million to 70 million deaths). And since the end of the Cold War, such bloodshed has declined precipitously. Meanwhile, the nuclear powers have scrupulously avoided direct combat, and there's very good reason to think they always will. There have been some near misses, but a close look at these cases is fundamentally reassuring--because in each instance, very different leaders all came to the same safe conclusion. Take the mother of all nuclear standoffs: the Cuban missile crisis. For 13 days in October 1962, the United States and the Soviet Union each threatened the other with destruction. But both countries soon stepped back from the brink when they recognized that a war would have meant curtains for everyone. As important as the fact that they did is the reason why: Soviet leader Nikita Khrushchev's aide Fyodor Burlatsky said later on, "It is impossible to win a nuclear war, and both sides realized that, maybe for the first time." The record since then shows the same pattern repeating: nuclear-armed enemies slide toward war, then pull back, always for the same reasons. The best recent example is India and Pakistan, which fought three bloody wars after independence before acquiring their own nukes in 1998. Getting their hands on weapons of mass destruction didn't do anything to lessen their animosity. But it did dramatically mellow their behavior. Since acquiring atomic weapons, the two sides have never fought another war, **despite severe provocations** (like Pakistani-based terrorist attacks on India in 2001 and 2008). They have skirmished once. But during that flare-up, in Kashmir in 1999, both countries were careful to keep the fighting limited and to avoid threatening the other's vital interests. Sumit Ganguly, an Indiana University professor and coauthor of the forthcoming India, Pakistan, and the Bomb, has found that on both sides, officials' thinking was strikingly similar to that of the Russians and Americans in 1962. The prospect of war brought Delhi and Islamabad face to face with a nuclear holocaust, and leaders in each country did what they had to do to avoid it.

#### Proliferators are not aggressive – they care about the economy and regime survival

**Alagappa** **8** (Muthiah – distinguished senior fellow at the East-West Center, The Long Shadow, p. 508-509)

Another major conclusion of this study is that although nuclear weapons could have destabilizing consequences in certain situations, on net they have reinforced national security and regional stability in Asia. It is possible to argue that fledgling and small nuclear arsenals would be more vulnerable to preventive attacks; that the related strategic compulsion for early use may lead to early launch postures and crisis situations; that limited war under nuclear conditions to alter or restore the political status quo can intensify tensions and carry the risk of escalation to major war; that inadequate command, control, and safety measures could result in accidents; and that nuclear facilities and material may be vulnerable to terrorist attacks. These are legitimate concerns, but thus far nuclear weapons have not undermined national security and regional stability in Asia. Instead, they have ameliorated national security concerns, strengthened the status quo, increased deterrence dominance, prevented the outbreak of major wars, and reinforced the regional trend to reduce the salience of force in international politics. Nor have nuclear weapons had the predicted domino effect. These consequences have strengthened regional security and stability that rest on multiple pillars. The grim scenarios associated with nuclear weapons in Asia frequently rely on worst-case political and military situations; often they are seen in isolation from the national priorities of regional states that emphasize economic development and modernization through participation in regional and global economies and the high priority accorded to stability in domestic and international affairs. The primary goal of regional states is **not** aggrandizement through **military aggression** but preservation of national integrity, state or regime survival, economic growth and prosperity, increase in national power and international influence, preservation or incremental change in the status quo, and the construction of regional and global orders in which they are subjects rather than objects. Seen in this broader perspective, nuclear weapons and more generally military force are of greater relevance in the defense, deterrence, and assurance roles than offensive ones. This does not imply that offensive use of force or military clashes will not occur; only that force is not the first option, that military clashes will be infrequent, and that when they do occur they will be limited in scope and intensity. Security interaction in Asia increasingly approximates behavior associated with defensive realism.

**Great power war is obsolete and small conflicts will not escalate**

**Mandelbaum 99** (Michael, Professor of American Foreign Policy, Johns Hopkins University; Director, Project on East-West Relations, Council on Foreign Relations, “Transcript: is Major War Obsolete?” Transcript of debate with John Mearsheimer, CFR, Feb 25, http://www.ciaonet.org/conf/cfr10/)

My argument says, tacitly, that while this point of view, which was widely believed 100 years ago, was not true then, there are reasons to think that it is true now. What is that argument? It is that major war is obsolete. By major war, I mean war waged by the most powerful members of the international system, using all of their resources over a protracted period of time with revolutionary geopolitical consequences. There have been four such wars in the modern period: the wars of the French Revolution, World War I, World War II, and the Cold War. Few though they have been, their consequences have been monumental. They are, by far, the most influential events in modern history. Modern history which can, in fact, be seen as a series of aftershocks to these four earthquakes. So if I am right, then what has been the motor of political history for the last two centuries that has been turned off? This war, I argue, this kind of war, is obsolete; less than impossible, but more than unlikely. What do I mean by obsolete? If I may quote from the article on which this presentation is based, a copy of which you received when coming in, “ Major war is obsolete in a way that styles of dress are obsolete. It is something that is out of fashion and, while it could be revived, there is no present demand for it. Major war is obsolete in the way that slavery, dueling, or foot-binding are obsolete. It is a social practice that was once considered normal, useful, even desirable, but that now seems odious. It is obsolete in the way that the central planning of economic activity is obsolete. It is a practice once regarded as a plausible, indeed a superior, way of achieving a socially desirable goal, but that changing conditions have made ineffective at best, counterproductive at worst.” Why is this so? Most simply, the costs have risen and the benefits of major war have shriveled. The costs of fighting such a war are extremely high because of the advent in the middle of this century of nuclear weapons, but they would have been high even had mankind never split the atom. As for the benefits, these now seem, at least from the point of view of the major powers, modest to non-existent. The traditional motives for warfare are in retreat, if not extinct. War is no longer regarded by anyone, probably not even Saddam Hussein after his unhappy experience, as a paying proposition. And as for the ideas on behalf of which major wars have been waged in the past, these are in steep decline. Here the collapse of communism was an important milestone, for that ideology was inherently bellicose. This is not to say that the world has reached the end of ideology; quite the contrary. But the ideology that is now in the ascendant, our own, liberalism, tends to be pacific. Moreover, I would argue that three post-Cold War developments have made major war even less likely than it was after 1945. One of these is the rise of democracy, for democracies, I believe, tend to be peaceful. Now carried to its most extreme conclusion, this eventuates in an argument made by some prominent political scientists that democracies never go to war with one another. I wouldn’t go that far. I don’t believe that this is a law of history, like a law of nature, because I believe there are no such laws of history. But I do believe there is something in it. I believe there is a peaceful tendency inherent in democracy. Now it’s true that one important cause of war has not changed with the end of the Cold War. That is the structure of the international system, which is anarchic. And realists, to whom Fareed has referred and of whom John Mearsheimer and our guest Ken Waltz are perhaps the two most leading exponents in this country and the world at the moment, argue that that structure determines international activity, for it leads sovereign states to have to prepare to defend themselves, and those preparations sooner or later issue in war. I argue, however, that a post-Cold War innovation counteracts the effects of anarchy. This is what I have called in my 1996 book, The Dawn of Peace in Europe, common security. By common security I mean a regime of negotiated arms limits that reduce the insecurity that anarchy inevitably produces by transparency-every state can know what weapons every other state has and what it is doing with them-and through the principle of defense dominance, the reconfiguration through negotiations of military forces to make them more suitable for defense and less for attack. Some caveats are, indeed, in order where common security is concerned. It’s not universal. It exists only in Europe. And there it is certainly not irreversible. And I should add that what I have called common security is not a cause, but a consequence, of the major forces that have made war less likely. States enter into common security arrangements when they have already, for other reasons, decided that they do not wish to go to war. Well, the third feature of the post-Cold War international system that seems to me to lend itself to warlessness is the novel distinction between the periphery and the core, between the powerful states and the less powerful ones. This was previously a cause of conflict and now is far less important. To quote from the article again, “ While for much of recorded history local conflicts were absorbed into great-power conflicts, in the wake of the Cold War, with the industrial democracies debellicised and Russia and China preoccupied with internal affairs, there is no great-power conflict into which the many local conflicts that have erupted can be absorbed. The great chess game of international politics is finished, or at least suspended. A pawn is now just a pawn, not a sentry standing guard against an attack on a king.”

#### Nuclear war doesn’t cause extinction

Socol 11 **(**Yehoshua (Ph.D.), an inter-disciplinary physicist, is an expert in electro-optics, high-energy physics and applications, and material science and Moshe Yanovskiy, Jan 2, “Nuclear Proliferation and Democracy”, http://www.americanthinker.com/2011/01/nuclear\_proliferation\_and\_demo.html)

Nuclear proliferation should no longer be treated as an unthinkable nightmare; it is likely to be the future reality. Nuclear weapons have been acquired not only by an extremely poor per capita but large country such as India, but also by even poorer and medium-sized nations such as Pakistan and North Korea. One could also mention South Africa, which successfully acquired a nuclear arsenal despite economic sanctions (the likes of which have not yet been imposed on Iran). It is widely believed that sanctions and rhetoric will not prevent Iran from acquiring nuclear weapons and that many countries, in the Middle East and beyond, will act accordingly (see, e.g., recent Heritage report). Nuclear Warfare -- Myths And Facts The direct consequences of the limited use of nuclear weapons -- especially low-yield devices most likely to be in the hands of non-state actors or irresponsible governments -- would probably not be great enough to bring about significant geopolitical upheavals. Casualties from a single 20-KT nuclear device **are** estimated [1] at about 25,000 fatalities with a similar number of injured, assuming a rather unfortunate scenario (the center of a large city, with minimal warning). Scaling the above toll to larger devices or to a larger number of devices is less than linear. For example, it has been estimated that it would take as many as eighty devices of 20-KT yield each to cause 300,000 civilian fatalities in German cities (a result actually achieved by Allied area attacks, or carpet-bombings, during the Second World War). A single 1-MT device used against Detroit has been estimated by U.S. Congress OTA to result in about 220,000 fatalities. It is anticipated that well-prepared civil defense measures, based on rather simple presently known techniques, would decrease these numbers by maybe an order of magnitude (as will be discussed later). There is little doubt that a nation determined to survive and with a strong sense of its own destiny would not succumb to such losses. It is often argued that the fallout effects of even the limited use of nuclear weapons would be worldwide and would last for generations. This is an exaggeration. The following facts speak for themselves. -- In Japan, as assessed by REFR, less than 1,000 excess cancer cases (i.e., above the natural occurrence) were recorded in over 100,000 survivors over the past sixty years -- compared with about 110,000 immediate fatalities in the two atomic bombings. No clinical or even sub-clinical effects were discovered in the survivors' offspring. -- In the Chernobyl area, as assessed by IAEA, only fifteen cancer deaths can be directly attributed to fallout radiation. No radiation-related increase in congenital formations was recorded. Nuclear Conflict -- Possible Scenarios With reference to a possible regional nuclear conflict between a rogue state and a democratic one, the no-winner (mutual assured destruction) scenario is probably false. An analysis by Anthony Cordesman, et al. regarding a possible Israel-Iran nuclear conflict estimated that while Israel might survive an Iranian nuclear blow, Iran would certainly not survive as an organized society. Even though the projected casualties cited in that study seem to us overstated, especially as regards Israel, the conclusion rings true. Due to the extreme high intensity ("above-conventional") of nuclear conflict, it is nearly certain that such a war, no matter its outcome, would not last for years, as we have become accustomed to in current low-intensity conflicts. Rather, we should anticipate a new geo-political reality: the emergence of clear winners and losers within several days, or at most weeks after the initial outbreak of hostilities. This latter reality will most probably contain fewer nuclear-possessing states than the former.

#### No nuke winter – studies

Seitz 11 (Russell, Harvard University Center for International Affairs visiting scholar, “Nuclear winter was and is debatable,” Nature, 7-7-11, Vol 475, pg37)

Alan Robock's contention that there has been no real scientific debate about the 'nuclear winter' concept is itself debatable (Nature 473, 275–276; 2011). This potential climate disaster, popularized in Science in 1983, rested on the output of a one-dimensional model that was later shown to overestimate the smoke a nuclear holocaust might engender. More refined estimates, combined with advanced three-dimensional models (see http://go.nature.com.libproxy.utdallas.edu/kss8te), have dramatically reduced the extent and severity of the projected cooling. Despite this, Carl Sagan, who co-authored the 1983 Science paper, went so far as to posit “the extinction of Homo sapiens” (C. Sagan Foreign Affairs 63, 75–77; 1984). Some regarded this apocalyptic prediction as an exercise in mythology. George Rathjens of the Massachusetts Institute of Technology protested: “Nuclear winter is the worst example of the misrepresentation of science to the public in my memory,” (see http://go.nature.com.libproxy.utdallas.edu/yujz84) and climatologist Kerry Emanuel observed that the subject had “become notorious for its lack of scientific integrity” (Nature 319, 259; 1986). Robock's single-digit fall in temperature is at odds with the subzero (about −25 °C) continental cooling originally projected for a wide spectrum of nuclear wars. Whereas Sagan predicted darkness at noon from a US–Soviet nuclear conflict, Robock projects global sunlight that is several orders of magnitude brighter for a Pakistan–India conflict — literally the difference between night and day. Since 1983, the projected worst-case cooling has fallen from a Siberian deep freeze spanning 11,000 degree-days Celsius (a measure of the severity of winters) to numbers so unseasonably small as to call the very term 'nuclear winter' into question.

# 2ac

### Warming 2AC

**National security exemption hurts legitimacy of NEPA cases against the military - lack of monitoring causes military greenwashing and means we'll never develop renewables**

**Court models the plan for future litigation - ensures emissions reductions**

**Warming causes extinction - temperature increases causes sea level rise and extreme weather conditions - ensures ecosystem collapse - existential risk now**

**And it means war is inevitable - things like crop failure would cause escalating resource wars**

**Conceded great power competition scenario – Klarevas**

### Yes Extinction

#### Warming causes extinction - in overview - prefer scientific consensus over skepticism

#### Causes extinction—4 degree projections trigger a laundry list of extinction scenarios

Roberts 13—citing the World Bank Review’s compilation of climate studies

- 4 degree projected warming, can’t adapt

- heat wave related deaths, forest fires, crop production, water wars, ocean acidity, sea level rise, climate migrants, biodiversity loss

David, “If you aren’t alarmed about climate, you aren’t paying attention” [http://grist.org/climate-energy/climate-alarmism-the-idea-is-surreal/] January 10 //mtc

We know we’ve raised global average temperatures around 0.8 degrees C so far. We know that 2 degrees C is where most scientists predict catastrophic and irreversible impacts. And we know that we are currently on a trajectory that will push temperatures up 4 degrees or more by the end of the century. What would 4 degrees look like? A recent World Bank review of the science reminds us. First, it’ll get hot: Projections for a 4°C world show a dramatic increase in the intensity and frequency of high-temperature extremes. Recent extreme heat waves such as in Russia in 2010 are likely to become the new normal summer in a 4°C world. Tropical South America, central Africa, and all tropical islands in the Pacific are likely to regularly experience heat waves of unprecedented magnitude and duration. In this new high-temperature climate regime, the coolest months are likely to be substantially warmer than the warmest months at the end of the 20th century. In regions such as the Mediterranean, North Africa, the Middle East, and the Tibetan plateau, almost all summer months are likely to be warmer than the most extreme heat waves presently experienced. For example, the warmest July in the Mediterranean region could be 9°C warmer than today’s warmest July. Extreme heat waves in recent years have had severe impacts, causing heat-related deaths, forest fires, and harvest losses. The impacts of the extreme heat waves projected for a 4°C world have not been evaluated, but they could be expected to vastly exceed the consequences experienced to date and potentially exceed the adaptive capacities of many societies and natural systems. [my emphasis] Warming to 4 degrees would also lead to “an increase of about 150 percent in acidity of the ocean,” leading to levels of acidity “unparalleled in Earth’s history.” That’s bad news for, say, coral reefs: The combination of thermally induced bleaching events, ocean acidification, and sea-level rise threatens large fractions of coral reefs even at 1.5°C global warming. The regional extinction of entire coral reef ecosystems, which could occur well before 4°C is reached, would have profound consequences for their dependent species and for the people who depend on them for food, income, tourism, and shoreline protection. It will also “likely lead to a sea-level rise of 0.5 to 1 meter, and possibly more, by 2100, with several meters more to be realized in the coming centuries.” That rise won’t be spread evenly, even within regions and countries — regions close to the equator will see even higher seas. There are also indications that it would “significantly exacerbate existing water scarcity in many regions, particularly northern and eastern Africa, the Middle East, and South Asia, while additional countries in Africa would be newly confronted with water scarcity on a national scale due to population growth.” Also, more extreme weather events: Ecosystems will be affected by more frequent extreme weather events, such as forest loss due to droughts and wildfire exacerbated by land use and agricultural expansion. In Amazonia, forest fires could as much as double by 2050 with warming of approximately 1.5°C to 2°C above preindustrial levels. Changes would be expected to be even more severe in a 4°C world. Also loss of biodiversity and ecosystem services: In a 4°C world, climate change seems likely to become the dominant driver of ecosystem shifts, surpassing habitat destruction as the greatest threat to biodiversity. Recent research suggests that large-scale loss of biodiversity is likely to occur in a 4°C world, with climate change and high CO2 concentration driving a transition of the Earth’s ecosystems into a state unknown in human experience. Ecosystem damage would be expected to dramatically reduce the provision of ecosystem services on which society depends (for example, fisheries and protection of coastline afforded by coral reefs and mangroves.) New research also indicates a “rapidly rising risk of crop yield reductions as the world warms.” So food will be tough. All this will add up to “large-scale displacement of populations and have adverse consequences for human security and economic and trade systems.” Given the uncertainties and long-tail risks involved, “there is no certainty that adaptation to a 4°C world is possible.” There’s a small but non-trivial chance of advanced civilization breaking down entirely. Now ponder the fact that some scenarios show us going up to 6 degrees by the end of the century, a level of devastation we have not studied and barely know how to conceive. Ponder the fact that somewhere along the line, though we don’t know exactly where, enough self-reinforcing feedback loops will be running to make climate change unstoppable and irreversible for centuries to come. That would mean handing our grandchildren and their grandchildren not only a burned, chaotic, denuded world, but a world that is inexorably more inhospitable with every passing decade.

### A2: Irreversible/ Intl Consensus Key

#### Not irreversible & plan solves warming – immediate emissions reductions – Desjardins

**And plan sends a signal of legal change which locks in a different national policy – that’s Craig**

#### Not irreversible – international cooperation is key

Lucon, Romeiro, Pacca 13 (Oswaldo, senior adviser on Energy and Climate Change to the São Paulo State Government, Brazil, Viviane,  Ph.D. Candidate on energy at the University of Sao Paulo, Sergio, associate professor at the University of Sao Paulo, "Reflections on the international climate change negotiations: A synthesis of a working group on carbon emission policy and regulation in Brazil", Energy Policy, Volume 59, August, Pages 938-941)

2. Climate policies and mechanisms: past and future For more than two decades international negotiations have been trying to design and implement treaties to control climate change, with modest practical results in terms of curbing emissions. Future climate regimes are uncertain and challenged by factors such as the global financial crisis, soaring emission trends in emerging economies, little ambition of Annex I countries, and loopholes in existing pledges. Currently, tracks are being pursued simultaneously. Firstly, the international community has agreed to an interim system of voluntary pledges under the UNFCCC’s Copenhagen and Cancun Agreement ([IISD, 2010](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib11)). Second, national governments are imposing domestic policies that could evolve into linked cross-national systems ([Michonski and Levi, 2010](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib23)) Third, States like California and Sao Paulo are putting forward ambitious emission reduction policies, raising the bar for national initiatives ([Stavins, 2012](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib25), [Lucon and Goldemberg, 2010](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib19), [FAPESP, 2010](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib7)). Fourth, the international community has set a goal of re-negotiating a new, large scale, binding treaty by 2015 through the Durban Platform for Enhanced Action ([UNFCCC, 2011](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib29)). Because metrics differ considerably amongst such systems, making it less clear which approaches might be the most successful, a solid polycentric approach will depend on a robust international coordination and sound scientific communication.¶ The UNFCCC talks have stalled in large part because while there is much agreement that more needs to be done, there is no agreement on how new efforts should be internationally coordinated, how the atmospheric budget should be allocated, and how burdens should be shared. Although negotiations in the next two Conferences of the Parties to the UNFCCC will certainly address carbon budgets, emerging economies (especially the BRICS) remain attached to the principle of common but differentiated responsibilities (CBDR), which allows for these countries to overestimate their future emission trend lines, making it doubtful whether mitigation efforts are additional or business-as-usual. Annex I pivotal countries are at the same time required to commit to more ambitious goals, beyond those from the Kyoto Protocol’s first commitment period, but have taken relatively little to the table.¶ Many countries face a critical challenge with their energy system: increasing incomes in growing economies; providing energy access to the poorest, and bringing them towards meeting the common climate change objectives ([International Energy Agency, 2012](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib13)). Others struggle to cope with their climate law with new realities, such as the phase-out of nuclear power or land use change impacts. In this complicated gridlock, practical solutions need to emerge from both OECD and BRICS, in order to steer the international negotiation process ([Keohane and Victor, 2011](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib17), [Victor, 2011](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib30) and [Mattoo and Subramanian, 2012](http://www.sciencedirect.com.proxy-remote.galib.uga.edu/science/article/pii/S030142151300311X#bib20)).

### Military Key: 2AC

#### Military is massive emitter – sending a signal of legal compliance is crucial to international perception

Horton 11 [Laura, Doctor of Jurisprudence Candidate 2012, Golden Gate University School of Law, FUTURE FORCE SUSTAINABILITY: DEPARTMENT OF DEFENSE AND ENERGY EFFICIENCY IN A CHANGING CLIMATE, 2011 Golden Gate University Golden Gate University Environmental Law Journal Spring, 2011, L/N]

The United States military is the single largest consumer of fuel in the world. n39 As a result, it has impaired the atmosphere considerably through GHG emissions, which is possibly the DOD's most significant contribution to the planet's ecological destabilization. n40 In 2007, at the [\*308] height of the Iraq and Afghanistan wars, usage was up to sixteen gallons of fuel a day per soldier, which is about three million dollars worth of fuel per day. n41 Those numbers are a major increase from one gallon of fuel a day per soldier during World War II, or even the four gallons of fuel a day during Desert Storm. n42 The military uses about 100 million barrels of oil per year, which is enough to fuel 1,000 cars to drive around the world 4,620 times. n43 At one point, the Army went through forty million gallons of fuel during just three weeks of combat in Iraq. n44 That is almost two million gallons per day, the total combined amount of gasoline used by the Allied armies during World War I. n45 Ninety-four percent of this energy is used for "mobility energy," or the energy required for training, moving, and sustaining forces, weapons, and equipment for military operations around the world. n46 Even without the Iraq and Afghanistan wars, the DOD would still be the largest oil-consuming governmental entity in the world. n47 Approximately 70% of fuel used by the DOD is jet fuel, making the Air Force the largest fossil-fuel-consuming branch in the military. n48 These estimates do not even include the amount of fuel consumption by military contractors. The military increasingly relies on private contractors in the wars in Iraq and Afghanistan. n49 The DOD spends billions of dollars each year on contractors, which provide services such as base support, construction, security, training local security forces, and transportation. Contractors are estimated to make up 40-60% of the workforce in recent operations. n50 Because of the strong presence of private contractors, there is potential for massive amounts of [\*309] fuel use in that sector of military operations. In 2008, the United States Energy Information Agency (EIA) reported that the total conventional energy use by the military was 889 trillion British thermal units (Btu) for the year. n51 Most of that energy came from the use of petroleum products. n52 Scientists calculated that carbon dioxide emissions from the military's total energy use as reported by the EIA amounted to 85 million metric tons (MMt) plus an additional 87 MMt from "manufacturing of materials, equipment, military infrastructure, vehicles, and munitions." n53 Therefore, total military carbon dioxide emissions are approximately 1.5% of total United States emissions, which was calculated at 5,839 MMt of carbon dioxide emissions in 2008 by the Department of Energy (DOE). n54 Carbon dioxide, along with other GHGs such as nitrous oxide, methane, sulfur hexafluoride, hydro-fluorocarbons, and per-fluorocarbons, causes global climate change. n55 The impacts of such a drastic destabilization of the earth's climate are increasingly visible. n56 Almost all of the world's glaciers are melting, the oceans are becoming warmer and more acidic, and animal ranges are shifting. n57 According to the Intergovernmental Panel on Climate Change, "global average sea level rose at an average rate of 1.8 [1.3 to 2.3] mm per year over 1961 to 2003 and at an average rate of about 3.1 [2.4 to 3.8] mm per year from 1993 to 2003." n58 Climate change has created extreme weather-pattern changes both in frequency and intensity over the last fifty years. n59 Frosts have become less frequent over most land areas, while hot days and hot nights have become more frequent; heat waves have become more frequent over most land areas; the frequency of heavy precipitation events (or [\*310] proportion of total rainfall from heavy falls) has increased over most areas; and the incidence of extreme high sea level has increased at a broad range of sites worldwide since 1975. n60 The military is a significant contributor to climate change, and the effects of climate change will prove to be substantially more difficult to deal with than past visible harms such as hazardous waste sites. This is because, as the DOD has acknowledged, the large-scale physical changes on the earth and in the atmosphere are already being observed on a global level. n61 The debate over balancing national security concerns with environmental protection has never been so important, as international concerns over climate change have reached a feverish pitch. These concerns have been recognized by military leaders who, in 2007, issued the National Security and the Threat of Climate Change report. n62 The report was prepared by the CNA, a nonprofit national security analysis organization, in order to inform United States policymakers and the military about the threat of climate change. n63 CNA convened a "Military Advisory Board" comprising several retired senior military officers and national security experts to assist in compiling and analyzing all of the data. n64 Upon analyzing the climate-change issue, CNA and the Military Advisory Board determined that the "nature and pace of climate change being observed today and the consequences projected by the consensus scientific opinion are grave and pose equally grave implications for our national security." n65 The report was unprecedented, because the idea that an environmental problem is also a national security risk is a novel but important declaration considering the past conflict between environmental concerns and national security. The implications of such a report are vast and could result in the greatest clean-up effort by the military to date in the form of alternative energy development.

### Bioterror 2AC

**National security exemption allows biodefense contractors to overlook safety requirements - causes new superbugs to be developed and means the diseases are vulnerable to release**

**And other countries model our lab practices and assume we’re building offensive lab capabilities - causes an arms race of engineered pathogens**

**Accidental release of bugs causes extinction - diseases are being mutated by lab engineers to be immune to vaccines - thats Wilson - things like H1N1 prove the speed of spread**

### Extinction – 2AC

#### Bioterror causes extinction – Sandberg evidence indicates engineered pathogens reach victims quicker and don’t burn out

#### Regulated lab safety key to prevent accidental release of a super-bug – causes extinction

Wilson 13 (Grant Wilson, Deputy Director, Global Catastrophic Risk Institute. J.D. from Lewis & Clark Law School, “Minimizing Global Catastrophic and Existential Risks from Emerging Technologies through International Law,” Virginia Environmental Law Journal, 31 Va. Envtl. L.J. 307, 2013)

i. Risk of an accident The accidental release of a bioengineered microorganism during legitimate research poses a GCR/ER when such a microorganism has the potential to be highly deadly and has never been tested in an uncontrolled environment. n50 The threat of an accidental release of a harmful organism recently sparked an unprecedented scientific debate amongst policymakers, scientists, and the general public in reaction to the creation of an airborne strain of H5N1. n51 In September 2011, Ron Fouchier, a scientist from the Netherlands, announced that he had genetically engineered the H5N1 virus--his lab "mutated the hell out of H5N1," he professed--to become airborne, which was tested on ferrets; a laboratory at the University of Wisconsin-Madison similarly mutated the virus into a highly transmittable form. n52 The "natural" H5N1 killed approximately sixty percent of those with reported infections (although the large amount of unreported cases means that this is higher than the actual death rate), but the total number of fatalities--346 people--was relatively small because the virus is difficult to transmit from human to human. The larger risk comes from the possibility that a mutated virus would spread more easily amongst [\*318] humans, n53 which could result in a devastating flu pandemic amongst the worst in history, if not the very worst. n54 To put this in context, about one in every fifteen Americans--twenty million people--would die every year from a seasonal flu as virulent as a highly transmittable form of H5N1. n55 Lax regulations and a rapidly growing number of laboratories exacerbate the dangers posed by bioengineered organisms. While lab biosafety n56 guidelines in the United States and Europe recommended that projects like reengineering the H5N1 virus be conducted in a BSL-4 facility (the highest security level), neither laboratory that reengineered the H5N1 virus met this non-binding standard. n57 Meanwhile, a 2007 Government Accountability Office ("GAO") report indicated that BSL-3 and BSL-4 labs are rapidly expanding in the United States. While there is significant public information about laboratories that receive federal funding or are registered with the Centers for Disease Control and Prevention ("CDC") and the U.S. Department of Agriculture's ("USD") Select Agent Program, much less is known about the "location, activities, and ownership" of labs that are not federally funded and not registered with the CDC or the USD Select Agent Program. n58 The same report also concluded that no single U.S. agency is responsible for tracking and assessing the risks of labs engaging in bioengineering. n59 While some claim that critics are overreacting to the risk from this genetically engineered H5N1 virus, there have been a series of accidental releases of microbes from laboratories that demonstrate the risks of largely unregulated laboratory safety. In 1978, an employee died from an accidental smallpox release from a laboratory on the floor below her. n60 Many scientists believe that the global H1N1 ("swine flu") [\*319] outbreak in the late 2000s originated from an accidental release from a Chinese laboratory. n61 Reports concluded that the accidental releases of Severe Acute Respiratory Syndrome ("SARS") in Singapore, Taiwan, and China from BSL-3 and BSL-4 laboratories all resulted from a low standard of laboratory safety. n62 In the United States, a review by the Associated Press of more than one hundred laboratory accidents and lost shipments between 2003 and 2007 shows a pattern of poor oversight, reporting failures, and faulty procedures, specifically describing incidents at "44 labs in 24 states," including at high-security labs. n63 In 2007, an outbreak of Foot and Mouth Disease likely came from a laboratory that was the "only known location where the strain [was] held in the country" n64 because of a leaky pipe that had known problems. n65 This long history of faulty laboratory safety is why some experts, such as Rutgers University chemistry professor and bioweapons expert Richard H. Ebright, believe that the H5N1 virus will "inevitably escape, and within a decade," citing the hundreds of germs with potential use in bioweapons that have accidentally escaped from laboratories in the United States. n66 While the effects of such lapses in laboratory safety have not yet been felt aside from relatively small events such as the swine flu outbreak mentioned above, the increasing ability of less-sophisticated scientists to engineer more deadly organisms vastly increase the possibility that a lapse in biosafety will have detrimental effects. An accidental or purposeful release of a bioengineered organism has potentially grave consequences. For example, researchers in Australia recently accidentally developed a mousepox virus with a 100 percent [\*320] fatality rate when they had merely intended to sterilize the mice. n67 Scientists in the United States also created a "superbug" version of mousepox created to "evade vaccines," which they argue is important research to thwart terrorists, sparking a debate amongst scientists and policymakers about whether the benefits of such research is worth the associated risks. n68 If such a bioengineered organism escaped from a laboratory, the results would be unpredictable but potentially extremely deadly to humans and/or animals.

\*ER = Existential Risk

### Circumvention 2AC

#### Will comply – even if they disagree

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### Obama supports NEPA agency review

Goad & Kroh 13 -- \*Manager of Research and Outreach for American Progress’ Public Lands Project AND\*\* Deputy Editor of ClimateProgress, worked on the Energy policy team at American Progress as the Associate Director for Ocean Communications (Jessica and Kiley, 4/25/2013, "Using Executive Authority to Account for the Greenhouse-Gas Emissions of Federal Projects," http://www.americanprogress.org/issues/green/report/2013/04/25/61446/using-executive-authority-to-account-for-the-greenhouse-gas-emissions-of-federal-projects/)

While Congress has shown no signs that it will take action to address the growing threat of climate change, there are a number of executive authorities under existing laws to address the crisis. The National Environmental Policy Act, which requires analyses of the environmental impacts of federal activities, is frequently overlooked in this context but could be an important tool for assessing the potential climate impacts from a proposed project—a key first step in shaping informed decisions. The Council on Environmental Quality should finalize its draft guidance for federal agencies to include carbon pollution in NEPA analyses, and the president should issue an executive order on this subject to give it more clarity and permanence. Additionally, CEQ must be certain to include federal resource-management agencies in its final guidance. Burning the oil, coal, and natural gas that come from our public lands and waters accounts for nearly a quarter of all U.S. greenhouse-gas emissions. Ignoring the federal mineral estate in the guidance is leaving out a large portion of the federal governments’ activities related to climate change. As President Obama made clear in his 2013 State of the Union address: I will direct my cabinet to come up with executive actions we can take, now and in the future, to reduce pollution, prepare our communities for the consequences of climate change, and speed the transition to more sustainable sources of energy. Ensuring that federal agencies—especially the land- and ocean-management agencies—assess greenhouse-gas pollution generated by proposed federal actions when reviewing their impacts is an important step in making this promise a reality.

#### The military will comply

Gillespie 12 -- Prof @ Univ of Waikato, has advised the Ministry of Foreign Affairs and Trade and the Department of Conservation, provides commissioned work for the United Nations and the Commonwealth Secretariat, has been awarded a Rotary International Scholarship, a Fulbright Fellowship, a Rockefeller Fellowship (Alexander, Winter 2012, "ARTICLE: The Limits of International Environmental Law: Military Necessity v. Conservation," 23 COLO. J. INT'L ENVTL. L. & POL'Y 1, L/N)

Generally, the answer is that the military can be made to comply with laws that seek to resolve internationally significant environmental problems. In some instances, such as where they are main culprits in the causation of the problem, they can be the subject of particular treaties. This was the case with the testing of nuclear weapons in the atmosphere. In other instances, obligations can be placed upon them to control their pollutants, just as all other sectors within a country may be obligated to comply with agreed international rules. This is true with climate change, ozone depletion, and some persistent organic pollutants. Nonetheless, in some instances, the ability for the military to be granted exceptions exists, although they are rarely used. Rather, militaries have learned to adapt and comply with international standards.

### President Complies – 2AC

#### Will abide- don’t want to rock the boat

Nosanchuk 02

[Matthew, Litigation Director and Legislative Counsel, the Violence Policy Center, Washington, D.C. A.B. 1987, Stanford University; J.D. 1990, Stanford Law School., The Embarrassing Interpretation of the Second Amendment, Northern Kentucky Law Review 2002, L/N]

Former Attorney General Edwin Meese III, who served during the administration of President Ronald Reagan, has staked out the most extreme position in support of independent interpretive authority on the part of the executive branch and Congress. In a controversial speech at Tulane Law School in 1987, Meese maintained that there is an important distinction between the Constitution as originally written and constitutional law that has involved [\*740] through the interpretation of Constitutional provisions by the Supreme Court. n202 Meese made the extraordinary claim that the only parties bound by a Supreme Court's constitutional decision are the parties named in the case, which would include the executive branch. n203 Moreover, because the three branches possess co-equal, independent authority to interpret the Constitution, all that really binds those officials in the executive branch who have executed an oath to uphold the Constitution is the Constitution itself. n204 However, the Tulane speech unleashed a firestorm of criticism, and some three weeks later, Meese published an op-ed in the Washington Post in which he softened his views. n205 He disputed that his speech represented an invitation to lawlessness in the name of the Constitution and emphasized that with respect to the executive branch and Congress, "prudence, the need for stability in the law, and respect for the judiciary will and should persuade officials of these other institutions to abide by a decision of the Court." n206 It would be, Meese contended, "highly irresponsible for them not to conform their behavior to precedent." n207 Should the President disagree with the Supreme Court's constitutional interpretation, Meese suggested that the proper course is to file a lawsuit that seeks to change the Court's mind, not to flagrantly disregard precedent. n208 Because of the discrepancy between Meese's initial speech and his subsequent effort at "damage control," one applies Meese's view to the Ashcroft Letter with some difficulty. However, it is fair to say that Meese, at least in his Washington Post op-ed, recognizes that an official like Attorney General Ashcroft presumptively is obliged to adhere to Supreme Court precedent and may not simply ignore the leading Supreme Court decisions and their progeny n209 in fashioning his own interpretation of the Second Amendment. And if Attorney General Ashcroft disagrees with judicial precedent on the Second Amendment, then the Attorney General should have identified a litigation vehicle through which to express his disagreement, not changed official policy through an unaccountable act such as a letter sent to the chief lobbyist of the NRA.

#### Empirics prove – will abide by Supreme Court even if they disagree

Crook 08

[John, CONTEMPORARY PRACTICE OF THE UNITED STATES RELATING TO INTERNATIONAL LAW: GENERAL INTERNATIONAL AND U.S. FOREIGN RELATIONS LAW: SUPREME COURT AFFIRMS HABEAS CORPUS FOR GUANTANAMO DETAINEES, 2008 The American Society of International Law American Journal of International Law October, 2008, L/N]

The ruling drew strong dissents from Chief Justice Roberts (joined by Justices Alito, Scalia, and Thomas), and Justice Scalia (joined by the chief justice and Justices Alito and Thomas). President Bush also criticized it, indicating that the administration would consider possible legislation to address questions left unsettled by the Court. PRESIDENT BUSH: [I]t's a Supreme Court decision; we'll abide by the Court's decision. That doesn't mean I have to agree with it. It's a deeply divided Court, and I strongly agree with those who dissented . . . based upon their serious concerns about U.S. national security. Congress and the administration worked very carefully on a piece of legislation that set the appropriate procedures in place as to how to deal with the detainees. [\*866] And we'll study this opinion . . . to determine whether or not additional legislation might be appropriate, so that we can safely say, or truly say to the American people: We're doing everything we can to protect you. n4

#### Courts means that president will comply

Ratner and Cole 84

[Michael, B.A., Brandeis University, 1966; J.D., Columbia Law School, 1970; Attorney, Center

of Constitutional Rights, David, B.A., Yale University, 1980; J.D., Yale Law School, 1984., The Force of Law: Judicial Enforcement of the War

Powers Resolution, 6/1/84, <http://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1434&context=llr>]

The judiciary has neither attempted to redress nor even recognized this problem. By dismissing in the name of "judicial restraint" challenges to presidential usurpation of the war powers, the courts have ignored their institutional role. They are to assure that fundamental alterations in the structure of government occur only through the constitutional process of amendment, and not through sheer exercises of power. They are "to say what the law is."7 When that law-particularly the preeminent law embodied in the Constitution-is manifestly disregarded, they are to enforce its dictates. The notion of a government of laws presupposes that laws can restrict and control the power of those within government. When power prevails over law, the latter's dependence on the former is uncovered, and all that is left to the judiciary is empty-handed self-restraint. The de facto presidential war power undermines both the foundation of our republican form of government and the limitations imposed by a written constitution.' If the Framer's premises were correct, it is quite likely to lead the nation into unwarranted and dangerous military conflicts. Judicial disregard of regular violations of this central provision of our Constitution sanctions illegal presidential actions. The arrogation of presidential war powers and the refusal of the courts to act have created a constitutional crisis. This article argues that the crisis can be resolved, and that, indeed, the first and most difficult steps to its resolution have already been taken. In 1973, in the shadow of the Vietnam War, Congress passed the War Powers Resolution. The Resolution establishes procedures for early congressional action when United States Armed Forces are introduced into hostilities. Its procedures, if followed, would go far toward restoring the constitutional balance. Congress intended it to do so. But the efficacy of those procedures depends largely on the Resolution's status as enforceable law, and that depends on the possibility of judicial action. Absent judicial enforcement, the War Powers Resolution loses the force of law and becomes merely a rallying cry for Congress. Absent judicial enforcement, the Resolution's purpose is all too easily frustrated by presidential action. Absent judicial enforcement, the War Powers Resolution does no more than the war powers clause itself did to maintain Congress' prerogative over war in the face of presidential usurpation.

#### President will be forced to comply

Morgan 09

[David Morgan is a senior producer at CBSNews.com, and editor of cbssundaymorning.com., Judge: Bush Can't Waive Environmental Law, 2/11/09, <http://www.cbsnews.com/2100-205_162-3789746.html>]

President Bush cannot exempt the Navy from environmental laws banning sonar training that opponents argue harms whales, a federal judge ruled Monday. Navy officials did not immediately respond to the ruling by U.S. District Judge Florence-Marie Cooper. Mark Matsunaga, spokesman for the Navy's Pacific Fleet, headquartered in Hawaii, said officials needed time to review it before commenting. The president signed a waiver Jan. 15 exempting the Navy and its anti-submarine warfare exercises from a preliminary injunction creating a 12 nautical-mile no-sonar zone off Southern California. The Navy's attorneys argued in court last week that he was within his legal rights. The Navy is not "exempted from compliance with the National Environmental Policy Act and this Court's injunction," Cooper wrote in her 36-page decision. Environmentalists have fought the use of sonar in court, saying it harms whales and other marine mammals. "It's an excellent decision," said Joel Reynolds, attorney for the National Resources Defense Council, which is spearheading the legal fight. "It reinstates the proper balance between national security and environmental protection." When he signed the exemption, Bush said complying with the law would "undermine the Navy's ability to conduct realistic training exercises that are necessary to ensure the combat effectiveness of carrier and expeditionary strike groups." Said Reynolds: "I've always felt that the president's actions were illegal in this case, and the judge has affirmed that point of view with the decision today."

### T-Restrictions-2ac

#### 1. We meet – plan prevents the use of armed forces if their use violates environmental statutes – that’s a restriction

Lobel 8 (Jules – Professor of Law, University of Pittsburgh Law School, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, 2008, Ohio State Law Journal, 69 Ohio St. L.J. 391, lexis)

More generally, the Court held that Congress has the power to authorize limited, undeclared war in which the President's power as Commander in Chief would be restricted. In such wars, the Commander in Chief's power would extend no further than Congress had authorized. As President Adams recognized, Congress had as a functional matter "declared war within the meaning of the Constitution" against France, but "under certain restrictions and limitations." n123 Under this generally accepted principle in our early constitutional history, Congress could limit the type of armed forcesused, the number of such forces available, the weapons that could be utilized, the theaters of actions, and the rules of combat. In short, it could dramatically restrict the President's power to conduct the war.

#### 2. Judicial restriction means regulation

**Kerrigan** **73** (Frank, Judge @ Court of Appeal of California, Fourth Appellate District, Division Two, 29 Cal. App. 3d 815; 105 Cal. Rptr. 873; 1973 Cal. App. LEXIS 1235, SUN COMPANY OF SAN BERNARDINO, CALIFORNIA, Petitioner, v. THE SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent; THE PEOPLE et al., Real Parties in Interest. PROGRESS-BULLETIN PUBLISHING COMPANY, Petitioner, v. THE SUPERIOR COURT OF SAN BERNARDINO COUNTY, Respondent; THE PEOPLE et al., Real Parties in Interest. (Consolidated Cases.), lexis)

While the studies were in progress, the United States Supreme Court found the impact of television cameras and lights in a courtroom setting prejudicial to the conduct of a fair trial. ( Estes v. Texas (1965) 381 U.S. 532 [14 L.Ed.2d 543, 85 S.Ct. 1628].) Shortly thereafter, in Sheppard v. Maxwell (1966) 384 U.S. 333, 358 [16 L.Ed.2d 600, 618, 86 S.Ct. 1507], the defendant's conviction of his wife's murder  [\*\*879]  was reversed because of "[the] carnival atmosphere at trial" and pervasive publicity affecting the fairness of the hearing. In reversing Dr. Sheppard's conviction, the court stated [\*\*\*15]  that: (1) the publicity surrounding a trial may become so extensive and prejudicial in nature that unless neutralized by appropriate judicial procedures, a resultant conviction may not stand; (2) the trial court has the duty of so insulating the trial from publicity as to insure its fairness; (3) a free press plays a vital role in the effective and fair administration of justice. But the court did not set down any fixed rules to guide trial courts, law enforcement officers or media as to what could or could not be printed. Instead, the majority suggested that judicial restrictions on speech might sometimes be appropriate in the following dicta: "The courts  [\*823]  must take such steps by rule and regulation that will protect their processes from prejudicial outside interferences. Neither prosecutors, counsel for defense, the accused, witnesses, court staff nor enforcement officers coming under the jurisdiction of the court should be permitted to frustrate its function. Collaboration between counsel and the press as to information affecting the fairness of a criminal trial is not onlysubject to regulation, but is highly censurable and worthy of disciplinary measures.  [\*\*\*16]  " (Ibid., p. 363 [16 L.Ed.2d p. 620].)

### T – Armed Forces – 2AC

#### We meet- plan text says introduction of armed forced into hostilities- we are whatever they define it as

#### Counterinterp- “substantial” means considerable

**Arkush 2** (David, JD Candidate – Harvard University, “Preserving "Catalyst" Attorneys' Fees Under the Freedom of Information Act in the Wake of Buckhannon Board and Care Home v. West Virginia Department of Health and Human Resources”, Harvard Civil Rights-Civil Liberties Law Review, Winter,   
37 Harv. C.R.-C.L. L. Rev. 131)

Plaintiffs should argue that the term "substantially prevail" is not a term of art because if considered a term of art, resort to Black's 7th produces a definition of "prevail" that could be interpreted adversely to plaintiffs. [99](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n99) It is commonly accepted that words that are not legal terms of art should be accorded their ordinary, not their legal, meaning, [100](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n100) and ordinary-usage dictionaries provide FOIA fee claimants with helpful arguments. The Supreme Court has already found favorable, temporally relevant definitions of the word "substantially" in ordinary dictionaries: "Substantially" suggests "considerable" or "specified to a large degree." See Webster's Third New International Dictionary 2280 (1976) (defining "substantially" as "in a substantial manner" and "substantial" as "considerable in amount, value, or worth" and "being that specified to a large degree or in the main"); see also 17 Oxford English Dictionary 66-67 (2d ed. 1989) ("substantial": "relating to or proceeding from the essence of a thing; essential"; "of ample or considerable amount, quantity or dimensions"). [101](http://www.lexis.com/research/retrieve?_m=1421887dc00d6c0b78bddb20857a69fa&docnum=16&_fmtstr=FULL&_startdoc=1&wchp=dGLbVzW-zSkAz&_md5=3f3ffe65eadff46b38ea49c40cb1037e&focBudTerms=definition%20of%20the%20term%21%20substantial%21%20or%20definition%20of%20the%20word%20substantial%21&focBudSel=all#n101)

#### 2. We meet – plan prevents introduction of humans into conflict

#### At worst – the plan is topical but indirectly solves – restricting armed forces also restricts their weapons use

Jensen 3 (Major Eric Talbot – Professor, International and Operational Law Department, The Judge Advocate General's School, U.S. Army, “Unexpected Consequences From Knock-On Effects: A Different Standard for Computer Network Operations?”, 2003, 18 Am. U. Int'l L. Rev. 1145, lexis)

n30. See id. art. 52, para. 2, 1125 U.N.T.S. at 27 (explaining in the Commentary that the "nature" aspect of the test is defined as "all objects directly used by the armed forces: weapons, equipment, transports, fortifications, depots, buildings occupied by armed forces, staff headquarters, communications centers etc"); Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 1949, para. 2020 (Y. Sandoz, et al. eds., 1998) [hereinafter GPI Commentary]. "Location" may turn a civilian object into a military object if, for example, it is a bridge or other construction, or ... a site which is of special importance for military operations in view of its location, either because it is a site that must be seized or because it is important to prevent the enemy from seizing it, or otherwise because it is a matter of forcing the enemy to retreat from it. Id. para. 2021. "The criterion of "purpose' is concerned with the intended future use of an object, while that of "use' is concerned with its present function. Id. para. 2022.

#### 3. C/I Armed forces includes all components of the military – it’s their definition

DLA 13 (Defense Logistics Agency Manual – US Military, “Defense Logistics Agency

MANUAL”, 1/4, http://www.dla.mil/issuances/Documents\_1/m5025%2001%20DLA\_Writing\_Style\_Guide.pdf)

Armed Forces ; Armed Forces of the United States Use “ Military Services ” for consistency throughout DLA issuances . All three terms denote collectively all components of the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

#### 4. Especially in the context of hostilities

Phelps 96 (Lieutenant Colonel Richard – Chief, Environmental Law, Headquarters United States Air Forces in Europe, Ramstein Air Base, J.D., Oklahoma City University School of Law, “Environmental Law for Overseas Installations”, 1996, 40 A.F. L. Rev. 49, lexis)

[Comments]

n98 Id. at encl. 2, para. C.3.a.(3). The term armed conflict refers to: hostilities for which Congress has declared war or enacted a specific authorization for the use of armed forces; hostilities or situations for which a report is prescribed by section 4(a)(1) of the War Powers Resolution, 50 U.S.C.A. Section 1543(a)(1) (Supp. 1978); and other actions by the armed forces that involve defensive use or introduction of weapons in situations where hostilities occur or are expected. This exemption applies as long as the armed conflict continues.

#### We meet their in the area arguments – we reduce in the entire area of armed forces

#### “In” means inclusion within

Random House 12 (Unabridged Dictionary, “in”, http://dictionary.reference.com/browse/in?s=t)

in   [in] Show IPA preposition, adverb, adjective, noun, verb, inned, in·ning.

preposition

1. (used to indicate inclusion within space, a place, or limits): walking in the park.

2. (used to indicate inclusion within something abstract or immaterial): in politics; in the autumn.

3. (used to indicate inclusion within or occurrence during a period or limit of time): in ancient times; a task done in ten minutes.

4. (used to indicate limitation or qualification, as of situation, condition, relation, manner, action, etc.): to speak in a whisper; to be similar in appearance.

5. (used to indicate means): sketched in ink; spoken in French.

#### 5. Prefer our interpretation

#### A. Overlimits – no part of limiting armed forces just limits humans – they exclude things guns that the humans use

#### B. Ground –weapons aff are critical to aff flexibility that prevents a stale topic

#### C. Education – weapons are a core part of the literature

#### 6. Their Lorber card is in the context of nuclear weapons and cyber operations – not weapons humans use

#### 7. Function limits check – Agent cp’s solve their runaway weapons claims

#### 8. Reasonability is good – prevents a race to the bottom and arbitrary counter interpretations that exclude the aff

### Generic Legalism K – 2AC

#### -----No L – not a conflict narrative at all – no part of the plan talks about a legal solution to preventing conflicts

#### 1. Framework- the role of the ballot is to weigh the plan against a competitive policy option

#### Net benefits-

#### First- Fairness- they moot the entirety of the 1ac, makes it impossible to be affirmative

#### Second – Education- Policy education is good- it teaches future decisionmaking

#### 2. K doesn’t come first

**Owens 2002** (David – professor of social and political philosophy at the University of Southampton, Re-orienting International Relations: On Pragmatism, Pluralism and Practical Reasoning, Millenium, p. 655-657)

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

#### 3. Extinction outweighs

Bok 88

(Sissela, Professor of Philosophy at Brandeis, Applied Ethics and Ethical Theory, Rosenthal and Shehadi, Ed.)

The same argument can be made for Kant’s other formulations of the Categorical Imperative: “So act as to use humanity, both in your own person and in the person of every other, always at the same time as an end, never simply as a means”; and “So act as if you were always through your actions a law-making member in a universal Kingdom of Ends.” No one with a concern for humanity could consistently will to risk eliminating humanity in the person of himself and every other or to risk the death of all members in a universal Kingdom of Ends for the sake of justice. To risk their collective death for the sake of following one’s conscience would be, as Rawls said, “irrational, crazy.” And to say that one did not intend such a catastrophe, but that one merely failed to stop other persons from bringing it about would be beside the point when the end of the world was at stake. For although it is true that we cannot be held responsible for most of the wrongs that others commit, the Latin maxim presents a case where we would have to take such responsibility seriously – perhaps to the point of deceiving, bribing, even killing an innocent person, in order that the world not perish. To avoid self-contradiction, the Categorical Imperative would, therefore, have to rule against the Latin maxim on account of its cavalier attitude toward the survival of mankind. But the ruling would then produce a rift in the application of the Categorical Imperative. Most often the Imperative would ask us to disregard all unintended but foreseeable consequences, such as the death of innocent persons, whenever concern for such consequences conflicts with concern for acting according to duty. But, in the extreme case, we might have to go against even the strictest moral duty precisely because of the consequences. Acknowledging such a rift would post a strong challenge to the unity and simplicity of Kant’s moral theory.

#### Securitizing the environment is good – builds public awareness to solve

**Matthew 2**, Richard A, associate professor of international relations and environmental political at the University of California at Irvine, Summer (ECSP Report 8:109-124)

In addition, environmental security's language and findings can benefit conservation and sustainable development."' Much environmental security literature emphasizes the importance of development assistance, sustainable livelihoods, fair and reasonable access to environmental goods, and conservation practices as the vital upstream measures that in the long run will contribute to higher levels of human and state security. The Organization for Economic Cooperation and Development (OECD) and the International Union for the Conservation of Nature (IUCN) are examples of bodies that have been quick to recognize how the language of environmental security can help them. The scarcity/conflict thesis has alerted these groups to prepare for the possibility of working on environmental rescue projects in regions that are likely to exhibit high levels of related violence and conflict. These groups are also aware that an association with security can expand their acceptance and constituencies in some countries in which the military has political control, For the first time in its history; the contemporary environmental movement can regard military and intelligence agencies as potentialallies in the struggle to contain or reverse humangenerated environmental change. (In many situations, of course, the political history of the military--as well as its environmental record-raise serious concerns about the viability of this cooperation.) Similarly, the language of security has provided a basis for some fruitful discussions between environmental groups and representatives of extractive industries. In many parts of the world, mining and petroleum companies have become embroiled in conflict. These companies have been accused of destroying traditional economies, cultures, and environments; of political corruption; and of using private militaries to advance their interests. They have also been targets of violence, Work is now underway through the environmental security arm of the International Institute for Sustainable Development (IISD) to address these issues with the support of multinational corporations. Third, the general conditions outlined in much environmental security research can help organizations such as USAID, the World Bank, and IUCN identify priority cases--areas in which investments are likely to have the greatest ecological and social returns. For all these reasons, IUCN elected to integrate environmental security into its general plan at the Amman Congress in 2001. Many other environmental groups and development agencies are taking this perspective seriously (e.g. Dabelko, Lonergan& Matthew, 1999). However, for the most part these efforts remain preliminary.' Conclusions Efforts to dismiss environment and security research and policy activities on the grounds that they have been unsuccessful are premature and misguided. This negative criticism has all too often been based on an excessively simplified account of the research findings of Homer-Dixon and a few others. Homer-Dixon’s scarcity-conflict thesis has made important and highly visible contributions to the literature, but it is only a small part of a larger and very compelling theory. This broader theory has roots in antiquity and speaks to the pervasive conflicts and security implications of complex nature-society relationships. The theory places incidents of violence in larger structural and historical contexts while also specifying contemporarily significant clusters of variables. From this more generalized and inclusive perspective, violence and conflict are revealed rarely as a society’s endpoint and far more often as parts of complicated adaptation processes. The contemporary research on this classical problematic has helped to revive elements of security discourse and analysis that were marginalized during the Cold War. It has also made valuable contributions to our understanding of the requirements of human security, the diverse impacts of globalization, and the nature of contemporary transnational security threats. Finall,y environmental security research has been valuable in myriad ways to a range of academics, policymakers, and activists, although the full extent of these contributions remains uncertain, rather than look for reasons to abandon this research and policy agenda, now is the time to recognize and to build on the remarkable achievements of the entire environmental security field.

#### 4. Perm do both

#### 5. True constraints are possible – court rulings are binding – past decisions prove

#### 6. External checks are effective

Aziz Z. Huq 12, Assistant Professor of Law, University of Chicago Law School, "Binding the Executive (by Law or by Politics)", May 25, www.law.uchicago.edu/files/file/400-ah-binding.pdf

Paulson ’ s genuflection and Obama ’ s reticence, I will contend here, are symptomatic of our political system ’ s operation rather than being aberration al . It is generally the case that even in the heart of crisis, and even on matters where executive competence is supposedly at an acme , legislators employ formal institutional powers not only to delay executive initiatives but also affirmatively to end presidential policies. 20 Numerous examples from recent events illustrate the point. Congressional adversaries of Obama, for instance, cut off his policy of emptying Guantánamo Bay via appropriations riders. 21 Deficit hawks spent 2011 resisting the President’s solutions to federal debt, while the President declined to short - circuit negotiations with unilateral action. 22 Even in military matters, a growing body of empirical research suggests Congress often successfully influences the course of overseas engagements to a greater degree than legal scholars have discerned or acknowledged. 23¶ That work suggests that the failure of absolute congressional control over military matters cannot be taken as evidence of “the inability of law to constrain the executive ” in more subtle ways (p 5). The conventional narrative of executive dominance , in other words, is at best incomplete and demands supplementing .¶ This Review uses The Executive Unbound as a platform to explore how the boundaries of discretionary executive action are established. As the controversial national security policies of the Bush administration recede in time, the issue of executive power becomes ripe for reconsideration. Arguments for or against binding the executive are starting to lose their partisan coloration. There is more room to investigate the dynamics of executive power in a purely positive fashion without the impinging taint of ideological coloration.¶ Notwithstanding this emerging space for analys i s, t here is still surprising inattention to evidence of whether the executive is constrained and to the positive question of how constraint works. The Executive Unbound is a significant advance because it takes seriously this second “ mechanism question. ” Future studies of the executive branch will ignore its i mportant and trenchant analysis at their peril. 24 Following PV ’ s lead, I focus on the descriptive , positive question of how the executive is constrained . I do speak briefly and in concluding to normative matters . B ut f irst and foremost, my arguments should be understood as positive and not normative in nature unless otherwise noted.¶ Articulating and answering the question “ W hat binds the executive ?” , The Executive Unbound draws a sharp line between legal and political constraints on discretion — a distinction between laws and institutions on the one hand, and the incentives created by political competition on the other hand . While legal constraints usually fail, it argues, political constraints can prevail. PV thus postulate what I call a “strong law/ politics dichotomy. ” My central claim in this Review is that this strong law/politics dichotomy cannot withstand scrutiny. While doctrinal scholars exaggerate law ’s autonomy, I contend, the realists PV underestimate the extent to which legal rules and institutions play a pivotal role in the production of executive constraint. Further, the political mechanisms they identify as substitutes for legal checks cannot alone do the work of regulating executive discretion. Diverging from both legalist and realist positions, I suggest that law and politics do not operate as substitutes in the regulation of executive authority. 25 They instead work as interlocking complements. An account of the borders of executive discretion must focus on the interaction of partisan and electoral forces on the one hand and legal rules. It must specify the conditions under which the interaction of political actors’ exertions and legal rules will prove effective in limiting such discretion.

#### **7.** Even if they aren’t – the president will go along with them anyway – takes out the impact

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### 8. No impact

**Dickinson 4** (Dr. Edward Ross, Professor of History – University of Cincinnati, “Biopolitics, Fascism, Democracy: Some Reflections on Our Discourse About ‘Modernity’”, Central European History, 37(1), p. 18-19)

In an important programmatic statement of 1996 Geoff Eley celebrated the fact that Foucault’s ideas have “fundamentally directed attention away from institutionally centered conceptions of government and the state . . . and toward a dispersed and decentered notion of power and its ‘microphysics.’”48 The “broader, deeper, and less visible ideological consensus” on “technocratic reason and the ethical unboundedness of science” was the focus of his interest.49 But the “power-producing effects in Foucault’s ‘microphysical’ sense” (Eley) of the construction of social bureaucracies and social knowledge, of “an entire institutional apparatus and system of practice” ( Jean Quataert), simply do not explain Nazi policy.50 The destructive dynamic of Nazism was a product not so much of a particular modern set of ideas as of a particular modern political structure, one that could realize the disastrous potential of those ideas. What was critical was not the expansion of the instruments and disciplines of biopolitics, which occurred everywhere in Europe. Instead, it was the principles that guided how those instruments and disciplines were organized and used, and the external constraints on them. In National Socialism, biopolitics was shaped by a totalitarian conception of social management focused on the power and ubiquity of the völkisch state. In democratic societies, biopolitics has historically been **constrained** by a rights-based strategy of social management. This is a point to which I will return shortly. For now, the point is that what was decisive was actually politics at the level of the state. A comparative framework can help us to clarify this point. Other states passed compulsory sterilization laws in the 1930s — indeed, individual states in the United States had already begun doing so in 1907. Yet they **did not proceed** tothe next steps adopted by National Socialism — mass sterilization, mass “eugenic” abortion and murder of the “defective.” Individual figures in, for example, the U.S. did make such suggestions. But **neither** the **political structures** of democratic states **nor** their **legal and political principles** **permitted** such policies actually being enacted. Nor did the scale of forcible sterilization in other countries match that of the Nazi program. I do not mean to suggest that such programs were not horrible; but in a **democratic** political **context** they did not develop the dynamic of constant radicalization and escalation that characterized Nazi policies.

#### 9. Citizen suits is an impact turn – legalism is necessary to spur action – that’s Taylor

#### 10. Liberalism is inevitable

Sparer ‘84

[Ed, Prof. Law and Soc Welfare @ Pennsylvania, “Fundamental Human Rights, Legal Entitlements, and the Social Struggle: A Friendly Critique of the Critical Legal Studies Movement,” 36 Stan. L. Rev. 509, January, ln//uwyo-ajl]

The thrust of CLS critique is devoted, in turn, to the exposure of the contradictions in liberal philosophy and law. This strand of the Critical legal critique is quite powerful and makes a much-needed contribution. In my view, however, it suffers from two general problems. First, the critique lends itself to exaggeration. This observation may be appreciated by considering what happens when Critical legal theorists themselves make tentative gestures at the social direction in which we should move. Such gestures, even from the most vigorous critics of liberalism, do not escape from liberalism and, indeed, liberal rights theory. Nevertheless, those gestures have great merit, particularly because of their use of liberal rights. For example, Frug, while expounding his vision of the city as a site of localized power and participatory democracy, attacks liberal theory and its dualities as an obstacle to his vision. n19 At the same time, without [\*518] acknowledging the significance of what he is doing, Frug relies on the liberal image of law and rights to defend the potential of his vision. He writes: It should be emphasized that participatory democracy on the local level need not mean the tyranny of the majority over the minority. Cities are units within states, not the state itself; cities, like all individuals and entities within the state, could be subject to state-created legal restraints that protect individual rights. Nor does participatory democracy necessitate the frustration of national political objectives by local protectionism; participatory institutions, like others in society, could still remain subject to general regulation to achieve national goals. The liberal image of law as mediating between the need to protect the individual from communal coercion and the need to achieve communal goals could thus be retained even in the model of participatory democracy. n20

#### 11. Alt Can’t solve --Appeals for institutional restrain are a crucial supplement to political resistance to executive power.

David COLE Law @ Georgetown ’12 “The Politics of the Rule of Law: The Role of Civil Society in the Surprising Resilience of Human Rights in the Decade after 9/11” http://www.law.uchicago.edu/files/files/Cole%201.12.12.pdf p. 51-53

As I have shown above, **while political forces played a significant role in checking** President **Bush**, what was significant was the particular substantive content of that politics; **it was not just any political pressure**, **but pressure to maintain** fidelity to **the rule of law**. **Politics standing alone is as likely to fuel as to deter executive abuse; consider the lynch mob, the Nazi Party** in Germany, or **xenophobia** more generally. **What we need if we are to check abuses of executive power is a politics that champions the rule of law.** Unlike the politics Posner and Vermeule imagine, **this** type of **politics cannot be segregated neatly from the law**. On the contrary, **it will often coalesce around a distinctly legal challenge, objecting to departures from distinctly legal norms**, heard in a court case, as we saw with Guantanamo. **Congress’s actions make clear that had Guantanamo been left to the political process, there would have been few if any advances**. **The litigation generated and concentrated political pressure on claims for a restoration of the values of legality,** and, as discussed above, **that pressure then played a critical role in the litigation’s outcome, which in turn affected the political pressure for reform. T**here is, to be sure, something paradoxical about this assessment. The rule of law, the separation of powers, and human rights are designed to discipline and constrain politics, out of a concern that pure majoritarian politics, focused on the short term, is likely to discount the long-term values of these principles. Yet without a critical mass of political support for these legal principles, they are unlikely to be effective checks on abuse, for many of the reasons Posner andVermeule identify. **The answer, however, is not to abandon the rule of law for politics, but to develop and nurture a political culture that values the rule of law itself.** **Civil society organizations devoted to such values**, **such as Human Rights Watch, the Center for Constitutional Rights, and the American Civil Liberties Union, play a central role in facilitating, informing, and generating that politics**. Indeed, **they have no alternative.** Unlike governmental institutions, civil society groups have no formal authority to impose the limits of law themselves. Their recourse to the law’s limits is necessarily indirect: they can file lawsuits seeking judicial enforcement, lobby Congress for statutory reform or other legislative responses, or seek to influence the executive branch. **But they necessarily and simultaneously pursue these goals through political avenues – by appealing to the public for support, educating the public, exposing abuses, and engaging in public advocacy around rule-of-law values**. Unlike ordinary politics, which tends to focus on the preferences of the moment, **the politics of the rule of law is committed to a set of long-term principles.** **Civil society organizations are uniquely situated to bring these long-term interests to bear on the public debate.** Much like a constitution itself, civil society groups are institutionally designed to emphasize and reinforce our long-term interests. When the ordinary political process is consumed by the heat of a crisis, organizations like the ACLU, Human Rights First, and the Center for Constitutional Rights, designed to protect the rule of law, are therefore especially important. While Congress and the courts were at best compromised and at worst complicit in the abuses of the post-9/11 period, civil society performed admirably. The Center for Constitutional Rights brought the first lawsuit seeking habeas review at Guantanamo, and went on to coordinate a nationwide network of volunteer attorneys who represented Guantanamo habeas petitioners. The ACLU filed important lawsuits challenging secrecy and government excesses, and succeeded in disclosing many details about the government’s illegal interrogation program. Both the ACLU and CCR filed lawsuits and engaged in public advocacy on behalf of torture and rendition victims, and challenging warrantless wiretapping. Human Rights Watch and Human Rights First wrote important reports on detention, torture, and Guantanamo, and Human Rights First organized former military generals and admirals to speak out in defense of humanitarian law and human rights. These efforts are but a small subset of the broader activities of civil society, at home and abroad, that helped to bring to public attention the Bush administration’s most questionable initiatives, and to portray the initiatives as contrary to the rule of law. At their best, civil society organizations help forge a politics of the rule of law, in which **there is a symbiotic relationship between politics and law**: **the appeal to law informs a particular politics, and that politics reinforces the law’s appeal, in a mutually reinforcing relation**. **Posner and Vermeule understand the importance of politics as a checking force in the modern world, but fail to see the critical qualification that the politics must be organized around a commitment to fundamental principles of liberty, equality, due process, and the separation of powers** – in short, the rule of law. Margulies and Metcalf recognize that politics as much as law determines the reality of rights protections, but fail to identify the unique role that civil society organizations play in that process**. It is not that the “rule of politics” has replaced the “rule of law,” but that, properly understood, a politics of law is a critical supplement to the rule of law.** We cannot survive as a constitutional democracy true to our principles without both. And our survival turns, not only on a vibrant constitution, but on a vibrant civil society dedicated to reinforcing and defending constitutional values.

12. Can’t result in the aff – 1AC Babcock says legal checks are key – political action is insufficient

### CP

#### Permutation do both

#### Doesn’t solve --- have to set a precedent in order to solve the oversight of the labs – as per the CP text there still isn’t oversight which means that in the dsesctrucion of these microorganisms there could be release

Still CDC/ domestic labs we don’t give up

### Science

#### NEPA review process key to environmental science

Rosenbaum 5 (Walter A., “Environmental Impact Statements: Gift Box or Black Box?,” in Environmental Policymaking: Assessing the Use of Alternative Policy Instruments, Michael T. Hatch, Editor, State University of New York Press, Albany, p. 2198)

Despite a need for belter data, monitoring and evaluation related to projects affected by EIS preparation, one undisputed result of NEPA procedures has been a significant enrichment and expansion of the data base, scientific research, and professional training associated with environmental management. EIS preparation, for example, has undoubtedly been a major reason for the development of the relatively new science of ecosystem analysis and for increased research in the cumulative effects of environmental intervention.

#### Impact is famineand duease

Treder 6 (Mike, Executive Director – Center for Responsible Nanotechnology, “From Heaven to Doomsday: Seven Future Scenarios”, Future Brief, http://ieet.org/index.php/IEET/more/468/)

In this scenario, reactionary critics of scientific progress, from supporters of "creationism" to radical environmental protection groups, and from neo-Luddites to educated technophobes (such as [Francis Fukuyama](http://reason.com/debate/eh-debate1.shtml) and [Leon Kass](http://www.fightaging.org/archives/000084.php)), are successful in essentially halting development. The result is a monumental increase in world misery. Research scientists, technology entrepreneurs, open-minded academics and political progressives are persecuted and stymied in most countries, including the U.S.; they are systematically silenced, jailed, or exterminated in other places. Advancements in artificial intelligence, genetic engineering, space exploration, robotics, and nanotechnology come to a halt. [Moore’s Law](http://en.wikipedia.org/wiki/Moore%27s_law) is finally overturned. Famine, pestilence, disease, and starvation at levels never seen before devastate much of the world. As millions suffer horrible wasting deaths, billions more are born into inescapable poverty and squalor. Chronic worldwide economic crises result in massive political instability that leads to civil wars, regional wars, and ultimately nuclear wars. At the close of the 21st century, world conditions have returned to a state more like the 19th century. It is the second Dark Ages.

#### Disease

**Greger 8** (M.D., is Director of Public Health and Animal Agriculture at The Humane Society of the United States (Michael Greger, , Bird Flu: A Virus of Our Own Hatching, <http://birdflubook.com/a.php?id=111>)

Senate Majority Leader Frist describes the recent slew of emerging diseases in almost biblical terms: “All of these [new diseases] were advance patrols of a great army that is preparing way out of sight.”3146 Scientists like Joshua Lederberg don’t think this is mere rhetoric. He should know. Lederberg won the Nobel Prize in medicine at age 33 for his discoveries in bacterial evolution. Lederberg went on to become president of Rockefeller University. “Some people think I am being hysterical,” he said, referring to pandemic influenza, “but there are catastrophes ahead. We live in evolutionary competition with microbes—bacteria and viruses. There is no guarantee that we will be the survivors.”3147 There is a concept in host-parasite evolutionary dynamics called the Red Queen hypothesis, which attempts to describe the unremitting struggle between immune systems and the pathogens against which they fight, each constantly evolving to try to outsmart the other.3148 The name is taken from Lewis Carroll’s Through the Looking Glass in which the Red Queen instructs Alice, “Now, here, you see, it takes all the running you can do to keep in the same place.”3149 Because the pathogens keep evolving, our immune systems have to keep adapting as well just to keep up. According to the theory, animals who “stop running” go extinct. So far our immune systems have largely retained the upper hand, but the fear is that given the current rate of disease emergence, the human race is losing the race.3150 In a Scientific American article titled, “Will We Survive?,” one of the world’s leading immunologists writes: Has the immune system, then, reached its apogee after the few hundred million years it had taken to develop? Can it respond in time to the new evolutionary challenges? These perfectly proper questions lack sure answers because we are in an utterly unprecedented situation [given the number of newly emerging infections].3151 The research team who wrote Beasts of the Earth conclude, “Considering that bacteria, viruses, and protozoa had a more than two-billion-year head start in this war, a victory by recently arrived Homo sapiens would be remarkable.”3152 Lederberg ardently believes that emerging viruses may imperil human society itself. Says NIH medical epidemiologist David Morens, When you look at the relationship between bugs and humans, the more important thing to look at is the bug. When an enterovirus like polio goes through the human gastrointestinal tract in three days, its genome mutates about two percent. That level of mutation—two percent of the genome—has taken the human species eight million years to accomplish. So who’s going to adapt to whom? Pitted against that kind of competition, Lederberg concludes that the human evolutionary capacity to keep up “may be dismissed as almost totally inconsequential.”3153 To help prevent the evolution of viruses as threatening as H5N1, the least we can do is take away a few billion feathered test tubes in which viruses can experiment, a few billion fewer spins at pandemic roulette. The human species has existed in something like our present form for approximately 200,000 years. “Such a long run should itself give us confidence that our species will continue to survive, at least insofar as the microbial world is concerned. Yet such optimism,” wrote the Ehrlich prize-winning former chair of zoology at the University College of London, “might easily transmute into a tune whistled whilst passing a graveyard.”3154

### Space Weapons Add-On – 2AC

#### Plan solves space weapons – solves U.S. Russia war

Scheetz 6 (Lori – J.D. Candidate, Georgetown University Law Center, Cites Thomas Graham Jr. – Former Acting Director of the U.S Arms Control and Disarmament Agency, “Infusing Environmental Ethics into the Space Weapons Dialouge”, Georgetown International Environmental Law Review, Fall, 19 Geo. Int'l Envtl. L. Rev. 57, lexis)

Proponents of weaponizing space focus on American military dependence on space and a sense of increasing danger of a ballistic missile attack. n24 Supporters argue that space weapons might be able to address threats from small, enemy satellites, n25 ground-based anti-satellite weapons, n26 and high altitude nuclear explosions. n27 With the growing concern in the United States over terrorists and unfriendly nations, weaponizing space to bolster U.S. national security is close to becoming a reality. Furthermore, the 2005 report of the Presidential Commission on the Future of Space Exploration, ("Aldridge Commission Report"), focuses on the commercialization of space. n28 Space weapons could be used to protect these new commercial interests, along with providing diplomatic leverage and creating offensive potential from space. n29 Many in the arms control community, on the other hand, believe that space weapons will destabilize the global community and promote a costly arms race. n30 Emphasizing the destabilizing consequences of space weapons, Thomas Graham Jr. asserts that, because American missile interceptors in space could quickly wipe out Russian early warning satellites, the mere existence of these weapons will escalate tension between the two countries and place Russia on constant alert. One false signal from an early warning satellite could lead to a Russian nuclear strike. n31 Moreover, weaponization of space might not significantly reduce American vulnerability to attack because most weapons systems will depend on ground facilities and radio links, which can be attacked through electronic hacking and jamming. n32 The actual weaponry based in space is also susceptible to attack. n33 Only a few scholars have focused on the potential impact of space weapons on the quality of the space environment. Space is characterized by transparency, [\*63] fragility, and the ability to hold orbital debris for longer periods of time. As a result, testing, deployment, and use of space weapons could result in irreparable harm. n34 Placing environmental concerns in the thick of the space weapons debate and establishing restrictions on testing and deployment of space weapons are critical for the future quality of the environment in space and on Earth.

#### Extinction

Helfand and Pastore 9 (Ira Helfand, M.D., and John O. Pastore, M.D., are past presidents of Physicians for Social Responsibility, 3/31, “U.S.-Russia nuclear war still a threat”, http://www.projo.com/opinion/contributors/content/CT\_pastoreline\_03-31-09\_EODSCAO\_v15.bbdf23.html)

President Obama and Russian President Dimitri Medvedev are scheduled to Wednesday in London during the G-20 summit. They must not let the current economic crisis keep them from focusing on one of the greatest threats confronting humanity: the danger of nuclear war. Since the end of the Cold War, many have acted as though the danger of nuclear war has ended. It has not. There remain in the world more than 20,000 nuclear weapons. Alarmingly, more than 2,000 of these weapons in the U.S. and Russian arsenals remain on ready-alert status, commonly known as hair-trigger alert. They can be fired within five minutes and reach targets in the other country 30 minutes later. Just one of these weapons can destroy a city. A war involving a substantial number would cause devastation on a scale unprecedented in human history. A study conducted by Physicians for Social Responsibility in 2002 showed that if only 500 of the Russian weapons on high alert exploded over our cities, 100 million Americans would die in the first 30 minutes. An attack of this magnitude also would destroy the entire economic, communications and transportation infrastructure on which we all depend. Those who survived the initial attack would inhabit a nightmare landscape with huge swaths of the country blanketed with radioactive fallout and epidemic diseases rampant. They would have no food, no fuel, no electricity, no medicine, and certainly no organized health care. In the following months it is likely the vast majority of the U.S. population would die. Recent studies by the eminent climatologists Toon and Robock have shown that such a war would have a huge and immediate impact on climate world wide. If all of the warheads in the U.S. and Russian strategic arsenals were drawn into the conflict, the firestorms they caused would loft 180 million tons of soot and debris into the upper atmosphere — blotting out the sun. Temperatures across the globe would fall an average of 18 degrees Fahrenheit to levels not seen on earth since the depth of the last ice age, 18,000 years ago. Agriculture would stop, eco-systems would collapse, and many species, including perhaps our own, would become extinct. It is common to discuss nuclear war as a low-probabillity event. But is this true? We know of five occcasions during the last 30 years when either the U.S. or Russia believed it was under attack and prepared a counter-attack. The most recent of these near misses occurred after the end of the Cold War on Jan. 25, 1995, when the Russians mistook a U.S. weather rocket launched from Norway for a possible attack. Jan. 25, 1995, was an ordinary day with no major crisis involving the U.S. and Russia. But, unknown to almost every inhabitant on the planet, a misunderstanding led to the potential for a nuclear war. The ready alert status of nuclear weapons that existed in 1995 remains in place today.

#### Space weapons cause extinction

Mitchell 1 (Gordon, Associate Professor and Dir Debate – U Pittsburgh, Et al., ISIS Briefing on Ballistic Missile Defense, July, [http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6.html](https://mail.msu.edu/cgi-bin/webmail?timestamp=1155773646&md5=nbdSk8IggXVhlJHMdBeJkw%3D%3D&redirect=http%3A%2F%2Fwww.isisuk.demon.co.uk%2F0811%2Fisis%2Fuk%2Fbmd%2Fno6.html))

A buildup of space weapons might begin with noble intentions of 'peace through strength' deterrence, but this rationale glosses over the tendency that '… the presence of space weapons…will result in the increased likelihood of their use'.[33](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) This drift toward usage is strengthened by a strategic fact elucidated by Frank Barnaby: when it comes to arming the heavens, 'anti-ballistic missiles and anti-satellite warfare technologies go hand-in-hand'.[34](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) The interlocking nature of offense and defense in military space technology stems from the inherent 'dual capability' of spaceborne weapon components. As Marc Vidricaire, Delegation of Canada to the UN Conference on Disarmament, explains: 'If you want to intercept something in space, you could use the same capability to target something on land'. [35](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) To the extent that ballistic missile interceptors based in space can knock out enemy missiles in mid-flight, such interceptors can also be used as **orbiting 'Death Stars'**, capable of sending munitions hurtling through the Earth's atmosphere. The dizzying speed of space warfare would introduce intense 'use or lose' pressure into strategic calculations, with the spectre of split-second attacks creating incentives to rig orbiting Death Stars with automated 'hair trigger' devices. In theory, this automation would enhance survivability of vulnerable space weapon platforms. However, by taking the decision to commit violence out of human hands and endowing computers with authority to make war, military planners could sow insidious seeds of accidental conflict. Yale sociologist Charles Perrow has analyzed 'complexly interactive, tightly coupled' industrial systems such as space weapons, which have many sophisticated components that all depend on each other's flawless performance. According to Perrow, this interlocking complexity makes it impossible to foresee all the different ways such systems could fail. As Perrow explains, '[t]he odd term "normal accident" is meant to signal that, given the system characteristics, multiple and unexpected interactions of failures are inevitable'.[36](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) Deployment of space weapons with pre-delegated authority to fire death rays or unleash killer projectiles would likely make war itself inevitable, given the susceptibility of such systems to 'normal accidents'. It is chilling to contemplate the possible effects of a space war. According to retired Lt. Col. Robert M. Bowman, 'even a tiny projectile reentering from space strikes the earth with such high velocity that it can do enormous damage — even more thanwould be done by a nuclear weapon of the same size!'. [37](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) In the same Star Wars technology touted as a quintessential tool of peace, defence analyst David Langford sees one of the most destabilizing offensive weapons ever conceived: 'One imagines dead cities of microwave-grilled people'.[38](http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6_paper.html#note1#note1) Given this unique potential for destruction, it is not hard to imagine that any nation subjected to space weapon attack would retaliate with maximum force, including use of nuclear, biological, and/or chemical weapons. An accidental war sparked by a computer glitch in space could plunge the world into the **most destructive military conflict ever seen**.

### War Powers DA – Gtown – 2AC

**No terror threat**

**Walt ‘12** Stephen M. Robert and Renée Belfer professor of international relations at Harvard University, "'America the brittle?'" September 10, Foreign Policy, http://walt.foreignpolicy.com/posts/2012/09/09/inflating\_the\_terrorist\_threat\_again

According to yesterday's New York Times, assorted "senior American officials" are upset that adversaries like al Qaeda, the Taliban, or the Somali pirates are not simply rolling over and dying. Instead, these foes are proving to be "resilient," "adaptable," and "flexible." These same U.S. officials are also worried that the United States isn't demonstrating the same grit, as supposedly revealed by high military suicide rates, increased reports of PTSD, etc. According to Times reporters Thom Shanker and Eric Schmitt, these developments¶ "raise concerns that the United States is losing ground in the New Darwinism of security threats, in which an agile enemy evolves in new ways to blunt America's vast technological prowess with clever homemade bombs and anti-American propaganda that helps supply a steady stream of fighters."¶ Or as Shanker and Schmitt put it (cue the scary music): "Have we become America the brittle?"¶ This sort of pop sociology is not very illuminating, especially when there's no evidence presented to support the various officials' gloomy pronouncements. In fact, the glass looks more than half-full. Let's start by remembering that the Somali pirates and al Qaeda have been doing pretty badly of late. Piracy in the Gulf of Aden is down sharply, Osama bin Laden is dead, and his movement's popularity is lower than ever. Whatever silly dreams he might have had about restoring the caliphate have proven to be just hollow fantasies. And as John Mueller and Mark Stewart showed in an article I linked to a few weeks ago, the actual record of post-9/11 plots against the United States suggests that these supposedly "agile" and "resilient" conspirators are mostly bumbling incompetents. In fact, Lehman Bros. might be the only major world organization that had a worse decade than al Qaeda did.

#### 1. No spillover – president will still do whatever is necessary to solve the DA

Marshall 08

[William, Kenan Professor of Law, University of North Carolina, Eleven Reasons Presidential Power Inevitably Expands and Why It Matters, 2008,

<http://www.bu.edu/law/central/jd/organizations/journals/bulr/documents/MARSHALL.pdf>]

The first and perhaps overarching reason underlying the growth of presidential power is that the constitutional text on the subject is notoriously unspecific, allowing as one writer maintains, for the office “to grow with the developing nation.”19 Unlike Article I, which sets forth the specific powers granted to Congress,20 the key provisions of Article II that grant authority to the President are written in indeterminate terms such as “executive power,”21 or the duty “to take care that the laws be faithfully executed.”22 Moreover, unlike the other branches, the Presidency has consistently been deemed to possess significant inherent powers.23 Thus, many of the President’s recognized powers, such as the authority to act in times of national emergency24 or the right to keep advice from subordinates confidential,25 are nowhere mentioned in the Constitution itself. In addition, case law on presidential power is underdeveloped. Unlike the many precedents addressing Congressional26 or federal judicial27 power, there are remarkably few Supreme Court cases analyzing presidential power. And the leading case on the subject, Youngstown Sheet & Tube Co. v. Sawyer, 28 is known less for its majority opinion than for its concurrence by Justice Jackson, an opinion primarily celebrated for its rather less-than-definitive announcement that much of presidential power exists in a “zone of twilight.”29 Accordingly, the question whether a President has exceeded her authority is seldom immediately obvious because the powers of the office are so openended.30 This fluidity in definition, in turn, allows presidential power to readily expand when factors such as national crisis, military action, or other matters of expedience call for its exercise.31 Additionally, such fluidity allows political expectations to affect public perceptions of the presidential office in a manner that can lead to expanded notions of the office’s power.32 This perception of expanded powers, in turn, can then lead to the perceived legitimacy of the President actually exercising those powers. Without direct prohibitions to the contrary, expectations easily translate into political reality.33

#### 2. Link thumpers –

#### First – their Li evidence indicates any slow down in decisionmaking kill warfighting – that’s the status quo

Rothkopf 13

[David, CEO and editor at large of Foreign Policy, The Gamble, 8/31/13, <http://www.foreignpolicy.com/articles/2013/08/31/the_gamble?page=0,1>]

Whatever happens with regard to Syria, the larger consequence of the president's action will resonate for years. The president has made it highly unlikely that at any time during the remainder of his term he will be able to initiate military action without seeking congressional approval. It is understandable that many who have opposed actions (see: Libya) taken by the president without congressional approval under the War Powers Act would welcome Obama's newly consultative approach. It certainly appears to be more in keeping with the kind of executive-legislative collaboration envisioned in the Constitution. While America hasn't actually required a congressional declaration of war to use military force since the World War II era, the bad decisions of past presidents make Obama's move appealing to the war-weary and the war-wary. But whether you agree with the move or not, it must be acknowledged that now that Obama has set this kind of precedent -- and for a military action that is exceptionally limited by any standard (a couple of days, no boots on the ground, perhaps 100 cruise missiles fired against a limited number of military targets) -- it will be very hard for him to do anything comparable or greater without again returning to the Congress for support. And that's true whether or not the upcoming vote goes his way. 4. This president just dialed back the power of his own office. Obama has reversed decades of precedent regarding the nature of presidential war powers -- and whether you prefer this change in the balance of power or not, as a matter of quantifiable fact he is transferring greater responsibility for U.S. foreign policy to a Congress that is more divided, more incapable of reasoned debate or action, and more dysfunctional than any in modern American history. Just wait for the Rand Paul filibuster or similar congressional gamesmanship. The president's own action in Libya was undertaken without such approval. So, too, was his expansion of America's drone and cyber programs. Will future offensive actions require Congress to weigh in? How will Congress react if the president tries to pick and choose when this precedent should be applied? At best, the door is open to further acrimony. At worst, the paralysis of the U.S. Congress that has given us the current budget crisis and almost no meaningful recent legislation will soon be coming to a foreign policy decision near you. Consider that John Boehner was instantly more clear about setting the timing for any potential action against Syria with his statement that Congress will not reconvene before its scheduled September 9 return to Washington than anyone in the administration has been thus far. Perhaps more importantly, what will future Congresses expect of future presidents? If Obama abides by this new approach for the next three years, will his successors lack the ability to act quickly and on their own? While past presidents have no doubt abused their War Powers authority to take action and ask for congressional approval within 60 days, we live in a volatile world; sometimes security requires swift action. The president still legally has that right, but Obama's decision may have done more -- for better or worse -- to dial back the imperial presidency than anything his predecessors or Congress have done for decades.

#### Second – Their green evidence says that precedents matter but is about precedents within areas- the plan sets precedent on the environment – not anything else

#### Even if there is spillover – status quo thumps

Wong 13 -- PhD dissertation in Government to Georgetown University (U Jin, 4/22/2013, "THE BLANK CHECK: SUPREME COURT DECISION - MAKING IN NATIONAL SECURITY CLAIMS AND DURING WARTIME," http://repository.library.georgetown.edu/bitstream/handle/10822/558286/Wong\_georgetown\_0076D\_12276.pdf?sequence=1)

This study started out with two questions. The first was: ?Does war influence judicial decision - making?? The second was: ?Do national security claims influence judicial decision - making?? The answer to the first question is: In a general hypothetical s ignificant war, there is a statistically significant finding of voting against the government. In the models run using the Spaeth database where the government is a party, the influence of all significant wars on judicial decision - making generally was to vote against the government. Presidential approval ratings are statistically significant only in wartime, but with a positive coefficient. Outside of wartime, presidential approval ratings are not statistically likely to influence Supreme Court behavior. This result suggests that while Courts vote strategically and support a popular president, they are still statistically likely to find against the government in a significant war. These findings altogether suggest that that the Supreme Court votes strat egically with an eye towards the popularity of the president, but revert to skepticism of government‘s wartime claims as the war progresses. The answer to the second question is: National security claims brought by the government achieve a statistically significant likelihood that the Supreme Court will vote against the government. National security claims were statistically significant with a negative signifier. This finding is consistent across all the major wars as well as peacetime. It also suggest s that the Supreme Court generally is not predisposed to defer to the executive branch‘s arguments when it comes to national security claims

#### 3. No Flex internal link

#### **A) Rules don’t hurt flexibility and flexibility not key to warfighting**

Holmes 9 -- Walter E. Meyer Professor of Law, New York University School of Law (Stephen, 4/30/2009, "In Case of Emergency: Misunderstanding Tradeoffs in the War on Terror," http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1140&context=californialawreview)

Thus, it also illustrates the truism, profoundly relevant to the war on terror, that limiting options available during emergencies can be good or bad, depending on what emergency responders, who may be tempted by sheer exhaustion to take hazardous shortcuts, will do with the latitudes they seize or receive. Campaigners for executive discretion routinely invoke the imperative need for "flexibility" to explain why counterterrorism cannot be successfully conducted within the Constitution and the rule of law. But general rules and situation-specific improvisation, far from being mutually exclusive, are perfectly compatible. 1 8 There is no reason why mechanically following protocols designed to prevent harried nurses from negligently administering the wrong blood type should preclude the same nurses from improvising unique solutions to the unique problems of a particular trauma patient. Drilled-in emergency protocols provide a psychologically stabilizing floor, shared by co- workers, on the basis of which untried solutions can then be improvised. 9 In other words, there is no reason to assert, at least not as a matter of general validity, that the importance of flexibility excludes reliance on rules during emergencies, including national-security emergencies. The emergency-room example can also deepen our understanding of national-security crises by bringing into focus an important but sometimes neglected distinction between threats that are novel and threats that are urgent. Dangers may be unprecedented without demanding a split-second response. Contrariwise, urgent threats that have appeared repeatedly in the past can be managed according to protocols that have become automatic and routine. Emergency-room emergencies are urgent even when they are perfectly familiar. Terrorists with access to weapons of mass destruction ("WMD"), by contrast, present a novel threat that is destined to endure for decades, if not longer. Such a threat is not an "emergency" in the sense of a sudden event, such as a house on fire, requiring genuinely split-second decision making, with no opportunity for serious consultation or debate. Managing the risks of nuclear terrorism requires sustained policies, not short-term measures. This is feasible precisely because, in such an enduring crisis, national-security personnel have ample time to think and rethink, to plan ahead and revise their plans. In depicting today's terrorist threat as "an emergency," executive-discretion advocates almost always blur together urgency and novelty. This is a consequential intellectual fallacy. But it also provides an opportunity for critics of executive discretion in times of crisis. If classical emergencies, in the house- on-fire or emergency-room sense, turn out to invite and require rule-governed responses, then the justification for dispensing with rules in the war on terror seems that much more tenuous and open to question. In crises where "time is of the essence" 2 1 and serious consultation is difficult or impossible, it is imperative for emergency responders to follow previously crafted first-order rules (or behavioral commands) to enable prompt remedial action and coordination. In crises that are not sudden and transient but, instead, endure over time and that therefore allow for extensive consultation with knowledgeable parties, it is essential to rely on previously crafted second-order rules (or decision-making procedures) designed to encourage decision makers to consider the costs and benefits of, and feasible alternatives to, proposed action plans. In medicine, a typical first-order rule is "always wash your hands before inserting a stent," and a typical second-order rule is "always get a second opinion before undertaking major surgery."

#### B) Rules allow better decisionmaking

**Wells 04** (Christina, Prof of law @ U of Missouri – Columbia, Missouri Law Review, Fall)

Thus, the threat of judicial review is still a necessary component of making executive actors accountable.  Second, one could argue that judicial review unreasonably burdens the executive's ability to act quickly and decisively in response to an emergent situation. [**238**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n238) National security emergencies are presumably the last instance in which we want such burdens on executive decision making. [**239**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n239) While this argument is reasonable as it pertains to executive decisions regarding the actual prosecution of a war -- i.e., decisions to invade a country, troop movements -- the historic patterns described above never involved such decisions. Rather, they involved decisions to pursue groups or individuals via domestic criminal or administrative measures, decisions made over long periods of time. Such actions taken in the name of national security rarely require quick and decisive action. [**240**](http://www.lexis.com/research/retrieve?_m=de0216e9953095373f699f9d14bbb843&csvc=bl&cform=bool&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLbVlz-zSkAV&_md5=9a947f66e07ba5718a84bf5f543141da#n240) The argument for executive flexibility thus carries less weight in this context than when military decisions are involved. Furthermore, given what we know of past skewed decision making, we may actually want to slow down that decision-making process when restricting civil liberties.

#### 4. Plan doesn’t hurt warfighting

Dycus 05

[Stephen, Professor, Vermont Law School, Osama's Submarine: National Security and

Environmental Protection After 9/11, William & Mary Environmental Law and Policy Review, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1112&context=wmelpr>]

The evidence that compliance with environmental laws has seriously impaired U.S. preparations for war is, however, far from conclusive. After all, the U.S. military's successes in Afghanistan and Iraq were achieved using troops trained and weapons tested under pre-September 11th environmental statutes and regulations. A Navy Admiral, testifying before Congress in support of RRPI in 2003, declared that "the readiness of the Navy is excellent. 32 According to a General Accounting Office report in 2002, "[d]espite the loss of some capabilities, service readiness data do not indicate the extent to which encroachment has significantly affected reported training readiness.” 33 In fact, the report concluded, "Training readiness, as reported in official readiness reports, remains high for most units.,34 Environmental Protection Agency ("EPA") Administrator Christine Todd Whitman went further in early 2003, stating, "I don't believe that there is a training mission anywhere in the country that is being held up or not taking place because of environmental protection regulation."35 A more recent study by the Congressional Research Service noted that "[a]lthough DOD has cited some examples of training restrictions or delays at certain installations and has used these as the basis for seeking legislative remedies, the department does not have a system in place to comprehensively track these cases and determine their impact on readiness.' "36 Some have taken a dimmer view of DOD's protests. EPA complained that the definition of "military readiness activities" in the DOD proposal was "broad and unclear and could be read to encompass more than the Department intends."37 Congressman John Dingell, a Democrat from Michigan, was much more emphatic: "I have dealt with the military for years and they constantly seek to get out from under environmental laws. But using the threat of 9-11 and al Qaeda to get unprecedented environmental immunity is despicable. 38

#### 5. Li evidence doesn’t take out our impacts – arms racing causes miscalculation which overwhelms deterrence – that’s Brooks

#### 6. Case turns the DA – base kickout means we can’t deploy troops to solve their impacts

#### 7. No internal link to bioterror- Li evidence doesn’t say that terrorists are acquiring those weapons or have the capability to use them

#### 8. No bioterror impact

Keller 13 -- Analyst at Stratfor, Post-Doctoral Fellow at University of Colorado at Boulder (Rebecca, 2013, "Bioterrorism and the Pandemic Potential," http://www.stratfor.com/weekly/bioterrorism-and-pandemic-potential)

It is important to remember that the risk of biological attack is very low and that, partly because viruses can mutate easily, the potential for natural outbreaks is unpredictable. The key is having the right tools in case of an outbreak, epidemic or pandemic, and these include a plan for containment, open channels of communication, scientific research and knowledge sharing. In most cases involving a potential pathogen, the news can appear far worse than the actual threat. Infectious Disease Propagation Since the beginning of February there have been occurrences of H5N1 (bird flu) in Cambodia, H1N1 (swine flu) in India and a new, or novel, coronavirus (a member of the same virus family as SARS) in the United Kingdom. In the past week, a man from Nepal traveled through several countries and eventually ended up in the United States, where it was discovered he had a drug-resistant form of tuberculosis, and the Centers for Disease Control and Prevention released a report stating that antibiotic-resistant infections in hospitals are on the rise. In addition, the United States is experiencing a worse-than-normal flu season, bringing more attention to the influenza virus and other infectious diseases. The potential for a disease to spread is measured by its effective reproduction number, or R-value, a numerical score that indicates whether a disease will propagate or die out. When the disease first occurs and no preventive measures are in place, the reproductive potential of the disease is referred to as R0, the basic reproduction rate. The numerical value is the number of cases a single case can cause on average during its infectious period. An R0 above 1 means the disease will likely spread (many influenza viruses have an R0 between 2 and 3, while measles had an R0 value of between 12 and 18), while an R-value of less than 1 indicates a disease will likely die out. Factors contributing to the spread of the disease include the length of time people are contagious, how mobile they are when they are contagious, how the disease spreads (through the air or bodily fluids) and how susceptible the population is. The initial R0, which assumes no inherent immunity, can be decreased through control measures that bring the value either near or below 1, stopping the further spread of the disease. Both the coronavirus family and the influenza virus are RNA viruses, meaning they replicate using only RNA (which can be thought of as a single-stranded version of DNA, the more commonly known double helix containing genetic makeup). The rapid RNA replication used by many viruses is very susceptible to mutations, which are simply errors in the replication process. Some mutations can alter the behavior of a virus, including the severity of infection and how the virus is transmitted. The combination of two different strains of a virus, through a process known as antigenic shift, can result in what is essentially a new virus. Influenza, because it infects multiple species, is the hallmark example of this kind of evolution. Mutations can make the virus unfamiliar to the body's immune system. The lack of established immunity within a population enables a disease to spread more rapidly because the population is less equipped to battle the disease. The trajectory of a mutated virus (or any other infectious disease) can reach three basic levels of magnitude. An outbreak is a small, localized occurrence of a pathogen. An epidemic indicates a more widespread infection that is still regional, while a pandemic indicates that the disease has spread to a global level. Virologists are able to track mutations by deciphering the genetic sequence of new infections. It is this technology that helped scientists to determine last year that a smattering of respiratory infections discovered in the Middle East was actually a novel coronavirus. And it is possible that through a series of mutations a virus like H5N1 could change in such a way to become easily transmitted between humans. Lessons Learned There have been several influenza pandemics throughout history. The 1918 Spanish Flu pandemic is often cited as a worst-case scenario, since it infected between 20 and 40 percent of the world's population, killing roughly 2 percent of those infected. In more recent history, smaller incidents, including an epidemic of the SARS virus in 2003 and what was technically defined as a pandemic of the swine flu (H1N1) in 2009, caused fear of another pandemic like the 1918 occurrence. The spread of these two diseases was contained before reaching catastrophic levels, although the economic impact from fear of the diseases reached beyond the infected areas. Previous pandemics have underscored the importance of preparation, which is essential to effective disease management. The World Health Organization lays out a set of guidelines for pandemic prevention and containment. The general principles of preparedness include stockpiling vaccines, which is done by both the United States and the European Union (although the possibility exists that the vaccines may not be effective against a new virus). In the event of an outbreak, the guidelines call for developed nations to share vaccines with developing nations. Containment strategies beyond vaccines include quarantine of exposed individuals, limited travel and additional screenings at places where the virus could easily spread, such as airports. Further measures include the closing of businesses, schools and borders. Individual measures can also be taken to guard against infection. These involve general hygienic measures -- avoiding mass gatherings, thoroughly washing hands and even wearing masks in specific, high-risk situations. However, airborne viruses such as influenza are still the most difficult to contain because of the method of transmission. Diseases like noroviruses, HIV or cholera are more serious but have to be transmitted by blood, other bodily fluids or fecal matter. The threat of a rapid pandemic is thereby slowed because it is easier to identify potential contaminates and either avoid or sterilize them. Research is another important aspect of overall preparedness. Knowledge gained from studying the viruses and the ready availability of information can be instrumental in tracking diseases. For example, the genomic sequence of the novel coronavirus was made available, helping scientists and doctors in different countries to readily identify the infection in limited cases and implement quarantine procedures as necessary. There have been only 13 documented cases of the novel coronavirus, so much is unknown regarding the disease. Recent cases in the United Kingdom indicate possible human-to-human transmission. Further sharing of information relating to the novel coronavirus can aid in both treatment and containment. Ongoing research into viruses can also help make future vaccines more efficient against possible mutations, though this type of research is not without controversy. A case in point is research on the H5N1 virus. H5N1 first appeared in humans in 1997. Of the more than 600 cases that have appeared since then, more than half have resulted in death. However, the virus is not easily transmitted because it must cross from bird to human. Human-to-human transmission of H5N1 is very rare, with only a few suspected incidents in the known history of the disease. While there is an H5N1 vaccine, it is possible that a new variation of the vaccine would be needed were the virus to mutate into a form that was transmittable between humans. Vaccines can take months or even years to develop, but preliminary research on the virus, before an outbreak, can help speed up development. In December 2011, two separate research labs, one in the United States and one in the Netherlands, sought to publish their research on the H5N1 virus. Over the course of their research, these labs had created mutations in the virus that allowed for airborne transmission between ferrets. These mutations also caused other changes, including a decrease in the virus's lethality and robustness (the ability to survive outside the carrier). Publication of the research was delayed due to concerns that the results could increase the risk of accidental release of the virus by encouraging further research, or that the information could be used by terrorist organizations to conduct a biological attack. Eventually, publication of papers by both labs was allowed. However, the scientific community imposed a voluntary moratorium in order to allow the community and regulatory bodies to determine the best practices moving forward. This voluntary ban was lifted for much of the world on Jan. 24, 2013. On Feb. 21, the National Institutes of Health in the United States issued proposed guidelines for federally funded labs working with H5N1. Once standards are set, decisions will likely be made on a case-by-case basis to allow research to continue. Fear of a pandemic resulting from research on H5N1 continues even after the moratorium was lifted. Opponents of the research cite the possibility that the virus will be accidentally released or intentionally used as a bioweapon, since information in scientific publications would be considered readily available. The Risk-Reward Equation The risk of an accidental release of H5N1 is similar to that of other infectious pathogens currently being studied. Proper safety standards are key, of course, and experts in the field have had a year to determine the best way to proceed, balancing safety and research benefits. Previous work with the virus was conducted at biosafety level three out of four, which requires researchers wearing respirators and disposable gowns to work in pairs in a negative pressure environment. While many of these labs are part of universities, access is controlled either through keyed entry or even palm scanners. There are roughly 40 labs that submitted to the voluntary ban. Those wishing to resume work after the ban was lifted must comply with guidelines requiring strict national oversight and close communication and collaboration with national authorities. The risk of release either through accident or theft cannot be completely eliminated, but given the established parameters the risk is minimal. The use of the pathogen as a biological weapon requires an assessment of whether a non-state actor would have the capabilities to isolate the virulent strain, then weaponize and distribute it. Stratfor has long held the position that while terrorist organizations may have rudimentary capabilities regarding biological weapons, the likelihood of a successful attack is very low. Given that the laboratory version of H5N1 -- or any influenza virus, for that matter -- is a contagious pathogen, there would be two possible modes that a non-state actor would have to instigate an attack. The virus could be refined and then aerosolized and released into a populated area, or an individual could be infected with the virus and sent to freely circulate within a population. There are severe constraints that make success using either of these methods unlikely. The technology needed to refine and aerosolize a pathogen for a biological attack is beyond the capability of most non-state actors. Even if they were able to develop a weapon, other factors such as wind patterns and humidity can render an attack ineffective. Using a human carrier is a less expensive method, but it requires that the biological agent be a contagion. Additionally, in order to infect the large number of people necessary to start an outbreak, the infected carrier must be mobile while contagious, something that is doubtful with a serious disease like small pox. The carrier also cannot be visibly ill because that would limit the necessary human contact. As far as continued research is concerned, there is a risk-reward equation to consider. The threat of a terrorist attack using biological weapons is very low. And while it is impossible to predict viral outbreaks, it is important to be able to recognize a new strain of virus that could result in an epidemic or even a pandemic, enabling countries to respond more effectively. All of this hinges on the level of preparedness of developed nations and their ability to rapidly exchange information, conduct research and promote individual awareness of the threat.

#### 9 Court expertise is sufficient—their link is blown out of proportion

Knowles 9 [Spring, 2009, Robert Knowles is a Acting Assistant Professor, New York University School of Law, “American Hegemony and the Foreign Affairs Constitution”, ARIZONA STATE LAW JOURNAL, 41 Ariz. St. L.J. 87]

A common justification for deference is that the President possesses superior competence due to expertise, information gathering, and political savvy in foreign affairs. These conclusions flow from the realist tenet that the external context is fundamentally distinct from the domestic context. The domestic realm is hierarchical and legal; the outside world is anarchical and political. The international realm is thus far more complex and fluid than the domestic realm. The executive is a political branch, popularly-elected and far more attuned to politics than are the courts. n258 Judges are, for the most part, generalists who possess no special expertise in foreign affairs. n259 Courts can only receive the information presented to them and cannot look beyond the record. n260 The President has a vast foreign relations bureaucracy to obtain and process information from around the world. Executive agencies such as the State Department and the military better understand the nature of foreign countries - their institutions and culture - and can predict responses in ways that courts cannot. n261 In the context of the political question doctrine, this rationale often appears when courts conclude that an issue lacks "judicially discoverable and manageable standards." n262 A stronger, related rationale is that the political branches are better suited for tracking dynamic and evolving norms in the anarchic international environment. n263 The meaning of international law changes over time and nations do not agree today on its meaning. Moreover, the relationships among nations in many instances will be governed by informal norms that do not correspond to international law. n264 In addition, many foreign affairs provisions in the Constitution had fixed meanings under international law in the Eighteenth Century - what it meant, for example, to "declare war" or to issue "letters of marquee and [\*129] reprisal" - but subsequent practice has substantially altered their meaning or rendered them irrelevant. n265 Courts are not adept at tracking these shifts. As many critics have observed, the "lack of judicially-manageable standards" argument is weak. Courts create rules to govern disputes regarding vague constitutional provisions such as the Due Process Clause. n266 Furthermore, if courts were to adjudicate foreign affairs disputes more often, they would have the opportunity to create clearer standards, making them more manageable. n267 Thus the lack-of-standards argument does not alone explain why foreign affairs should be off-limits. The argument regarding courts' limited access to information and lack of expertise seem persuasive at first, but it loses its force upon deeper inspection. For instance, expertise is also a rationale for Chevron deference in the domestic context. n268 Generalist judges handle cases involving highly complex and obscure non-foreign affairs issues while giving appropriate deference to interpretations of agencies charged with administering statutory schemes. n269 What makes foreign affairs issues so different that they justify even greater deference? n270 Perhaps foreign affairs issues are just an order of magnitude more complex than even the most complex domestic issues. However, this line of thinking very quickly leads to boundary problems. Economic globalization, rapid global information flow, and increased transborder movement have "radically increased the number of cases that directly implicate foreign relations" and have made foreign parties and conduct, as well as international law questions, increasingly [\*130] common in U.S. litigation. n271 If courts were to cabin off all matters touching on foreign relations as beyond their expertise, it would result in an ever-increasing abdication of their role. The political norm-tracking argument reveals the second major problem with using anarchy as a basis for special deference: it fails to account for the degree of deference that should be afforded to the President. Under the anarchy-based argument, the meaning of treaties and other concepts in foreign affairs depend entirely on politics and power dynamics, which the President is especially competent (and the courts especially incompetent) in tracking. If this is so, the courts must give total deference to the executive branch. If one does not wish to take the position that the courts should butt out altogether in foreign affairs, there must be other reasons for the courts' involvement. Even proponents of special deference generally acknowledge that some of the courts' strengths lie in protecting individual rights and "democracy-forcing." n272 But what is the correct balance to strike between competing functional goals of the separation of powers?

#### Readiness Low –

#### A) Sequester

Pellerin 13

[Cheryl, American Forces Press Service, Hale: Sequestration Devastates U.S. Military Readiness, 5/10/13, <http://www.defense.gov/news/newsarticle.aspx?id=119998>]

During a Senate hearing yesterday on President Barack Obama’s $9.5 billion military construction budget request for fiscal year 2014, Defense Department Comptroller Robert F. Hale said the severe and abrupt budget cuts imposed by sequestration are devastating the U.S. armed forces. Hale and John Conger, acting deputy undersecretary of defense for installations and environment, testified on military construction and family housing before the Senate Appropriations subcommittee on military construction, veterans affairs and related agencies. The officials described for the panel the impact of sequestration on military construction, facilities sustainment and restoration, and on the services in the current year. “While sequestration and related problems do not affect most military construction projects, they are devastating military readiness,” Hale told the senators, adding, “I just can't believe what we're doing to the military right now.”

## 1ar

### Warming

#### Feedbacks are net positive – additional emissions cause runaway warming

Hanson 8 (James E., Head – NASA Goddard Institute for Space Studies and Adjunct Professor of Earth and Environmental Science – Columbia University, “Tipping point: Perspective of a Scientist”, April, http://www.columbia.edu/~jeh1/2008/StateOfWild\_20080428.pdf)

Fast feedbacks—changes that occur quickly in response to temperature change—amplify the initial temperature change, begetting additional warming. As the planet warms, fast feedbacks include more water vapor, which traps additional heat, and less snow and sea ice, which exposes dark surfaces that absorb more sunlight. Slower feedbacks also exist. Due to warming, forests and shrubs are moving poleward into tundra regions. Expanding vegetation, darker than tundra, absorbs sunlight and warms the environment. Another slow feedback is increasing wetness (i.e., darkness) of the Greenland and West Antarctica ice sheets in the warm season. Finally, as tundra melts, methane, a powerful greenhouse gas, is bubbling out. Paleoclimatic records confirm that the long-lived greenhouse gases— methane, carbon dioxide, and nitrous oxide—all increase with the warming of oceans and land. These positive feedbacks amplify climate change over decades, centuries, and longer. The predominance of positive feedbacks explains why Earth’s climate has historically undergone large swings: feedbacks work in both directions, amplifying cooling, as well as warming, forcings. In the past, feedbacks have caused Earth to be whipsawed between colder and warmer climates, even in response to weak forcings, such as slight changes in the tilt of Earth’s axis.2 The second fundamental property of Earth’s climate system, partnering with feedbacks, is the great inertia of oceans and ice sheets. Given the oceans’ capacity to absorb heat, when a climate forcing (such as increased greenhouse gases) impacts global temperature, even after two or three decades, only about half of the eventual surface warming has occurred. Ice sheets also change slowly, although accumulating evidence shows that they can disintegrate within centuries or perhaps even decades. The upshot of the combination of inertia and feedbacks is that additional climate change is already “in the pipeline”: even if we stop increasing greenhouse gases today, more warming will occur. This is sobering when one considers the present status of Earth’s climate. Human civilization developed during the Holocene (the past 12,000 years). It has been warm enough to keep ice sheets off North America and Europe, but cool enough for ice sheets to remain on Greenland and Antarctica. With rapid warming of 0.6°C in the past 30 years, global temperature is at its warmest level in the Holocene.3 The warming that has already occurred, the positive feedbacks that have been set in motion, and the additional warming in the pipeline together have brought us to the precipice of a planetary tipping point. We are at the tipping point because the climate state includes large, ready positive feedbacks provided by the Arctic sea ice, the West Antarctic ice sheet, and much of Greenland’s ice. Little additional forcing is needed to trigger these feedbacks and magnify global warming. If we go over the edge, we will transition to an environment far outside the range that has been experienced by humanity, and there will be no return within any foreseeable future generation. Casualties would include more than the loss of indigenous ways of life in the Arctic and swamping of coastal cities. An intensified hydrologic cycle will produce both greater floods and greater droughts. In the US, the semiarid states from central Texas through Oklahoma and both Dakotas would become more drought-prone and ill suited for agriculture, people, and current wildlife. Africa would see a great expansion of dry areas, particularly southern Africa. Large populations in Asia and South America would lose their primary dry season freshwater source as glaciers disappear. A major casualty in all this will be wildlife.

#### Sea level rise will threaten millions that live in coastal regions

Bernstein 7 (Lenny – PhD Chemical Engineering @ Purdue and President of the CMC, 2007, IPCC Fourth Assessment Report, http://www.ipcc.ch/ipccreports/ar4-syr.htm, More Authors on Draft Team)

Coasts are projected to be exposed to increasing risks, including coastal erosion, due to climate change and sea level rise. The effect will be exacerbated by increasing human-induced pressures on coastal areas (very high confidence). {WGII 6.3, 6.4, SPM} \_ By the 2080s, many millions more people than today are projected to experience floods every year due to sea level rise. The numbers affected will be largest in the densely populated and low-lying megadeltas of Asia and Africa while small islands are especially vulnerable (very high confidence). {WGII 6.4, 6.5, Table 6.11, SPM}

#### Ozone depletion causes extinction

Greenpeace 95 (Full of Holes: Montreal Protocol and the Continuing Destruction of the Ozone Layer -- A Greenpeace Report with contributions from Ozone Action, http://archive.greenpeace.org/ozone/holes/holebg.html**)**

When chemists Sherwood Rowland and Mario Molina first postulated a link between chlorofluorocarbons and ozone layer depletion in 1974, the news was greeted with scepticism, but taken seriously nonetheless. The vast majority of credible scientists have since confirmed this hypothesis. The ozone layer around the Earth shields us all from harmful ultraviolet radiation from the sun. Without the ozone layer, life on earth would not exist. Exposure to increased levels of ultraviolet radiation can cause cataracts, skin cancer, and immune system suppression in humans as well as innumerable effects on other living systems. This is why Rowland's and Molina's theory was taken so seriously, so quickly - the stakes are literally the continuation of life on earth.

#### Climate change is comparatively the only existential threat

Doebbler 11 (Curtis, International Human Rights Lawyer. Two threats to our existence. Ahram Weekly. July 2011. http://weekly.ahram.org.eg/2011/1055/envrnmnt.htm)

Climate change is widely acknowledged to be the greatest threat facing humanity. It will lead to small island states disappearing from the face of the earth, serious global threats to our food and water supplies, and ultimately the death of hundreds of millions of the poorest people in the world over the course of this century. No other threat -- including war, nuclear disasters, rogue regimes, terrorism, or the fiscal irresponsibility of governments -- is reliably predicted to cause so much harm to so many people on earth, and indeed to the earth itself. The International Panel on Climate Change, which won the Nobel Prize for its evaluation of thousands of research studies to provide us accurate information on climate change, has predicted that under the current scenario of "business-as-usual", temperatures could rise by as much as 10 degrees Celsius in some parts of the world. This would have horrendous consequences for the most vulnerable people in the world. Consequences that the past spokesman of 136 developing countries, Lumumba Diaping, described as the equivalent of sending hundreds of millions of Africans to the furnace. Yet for more than two decades, states have failed to take adequate action to either prevent climate change or to deal with its consequences. A major reason for this is that many wealthy industrialised countries view climate change as at worst an inconvenience, or at best even a potential market condition from which they can profit at the expense of developing countries. Indeed, history has shown them that because of their significantly higher levels of population they have grown rich and been able to enslave, exploit and marginalise their neighbours in developing countries. They continue in this vein.

### Hotspots

#### Hotspots key

Mittermeier 11

(et al, Dr. Russell Alan Mittermeier is a primatologist, herpetologist and biological anthropologist. He holds Ph.D. from Harvard in Biological Anthropology and as conducted fieldwork for over 30 years on three continents and in more than 20 countries in mainly tropical locations and he is considered an expert on biological diversity. Mittermeier has formally discovered several monkey species. From Chapter One of the book Biodiversity Hotspots – F.E. Zachos and J.C. Habel (eds.), DOI 10.1007/978-3-642-20992-5\_1, # Springer-Verlag Berlin Heidelberg 2011 – available at: http://www.academia.edu/1536096/Global\_biodiversity\_conservation\_the\_critical\_role\_of\_hotspots)

Global changes, from habitat loss and invasive species to anthropogenic¶ climate change, have initiated the sixth great mass extinction event in Earth’s¶ history. As species become threatened and vanish, so too do the broader ecosystems¶ and myriad benefits to human well-being that depend upon biodiversity. Bringing¶ an end to global biodiversity loss requires that limited available resources be guided¶ to those regions that need it most. The biodiversity hotspots do this based on the¶ conservation planning principles of irreplaceability and vulnerability. Here, we¶ review the development of the hotspots over the past two decades and present an¶ analysis of their biodiversity, updated to the current set of 35 regions. We then¶ discuss past and future efforts needed to conserve them, sustaining their fundamental¶ role both as the home of a substantial fraction of global biodiversity and as the¶ ultimate source of many ecosystem services upon which humanity depends.

### Craig

#### Adaptation of legal regimes to deal with climate is critical to adaptation – prevents worst impacts of warming

Craig 10 – Professor of Law & Associate Dean for Environmental Programs @ Florida State University [Robin Kundis Craig, “'Stationarity is Dead' - Long Live Transformation: Five Principles for Climate Change Adaptation,” Harvard Environmental Law Review, Vol. 34, No. 1, 2010, pp. 9-75

Climate change is creating positive feedback loops that may irreversibly push ecosystems over ecological thresholds, destroying coupled socio-ecological systems. In January 2009, the U.S. Climate Change Science Program ("USCCSP") reported that the Arctic tundra represents a "clear example" of climate change pushing an ecosystem beyond an ecological threshold. 21 Warmer temperatures in the Arctic reduces the duration of snow cover, which in turn reduces the tundra's ability to reflect the sun's energy, leading to an "amplified, positive feedback effect. '22 The result has been "a relatively sudden, domino-like chain of events that result in conversion of the arctic tundra to shrubland, triggered by a relatively slight increase in temperature," 23 and the consequences for people living in these areas have been severe. For example, the Inupiat Eskimo village of Kivalina, Alaska, is suing for the costs of moving elsewhere, in response to the steady erosion of the village itself.24 Similarly, most Canadian Inuit live near the coast, on lands that exist only because of permafrost. Warming Arctic conditions threaten to deprive them of their homelands.25 Thus, a variety of natural systems and the humans who depend on them - what are termed socio-ecological systems26 - are vulnerable to climate change impacts. While developing and implementing successful **mitigation strategies** clearly **remains critical** in the quest to avoid worst-case climate change scenarios, we have passed the point where mitigation efforts alone can deal with the problems that climate change is creating.27 Because of "committed" warming - climate change that will occur regardless of the world's success in implementing mitigation measures, a result of the already accumulated greenhouse gases ("GHGs") in the atmosphere 28 - what happens to socio ecological systems over the next decades, and most likely over the next few centuries, will largely be beyond human control. The time to start preparing for these changes is now, by making adaptation part of a national climate change policy. Nevertheless, American environmental law and policy are not keeping up with climate change impacts and the need for adaptation.29 To be sure, adjustments to existing analysis requirements are relatively easy, as when the Eastern District of California ordered the FWS to consider the impacts of climate change in its Biological Opinion under the ESA.30 Agencies and courts have also already incorporated similar climate change analyses into the National Environmental Policy Act's ("NEPA") Environmental Impact Statement ("EIS") requirement3 ' and similar requirements in other statutes. 32 Even so, adapting law to a world of continuing climate change impacts will be a far more complicated task than addressing mitigation. When the law moves beyond analysis requirements to actual environmental regulation and natural resource management,33 it will find itself in the increasingly uncomfortable world of changing complex systems and complex adaptive management - a world of unpredictability, poorly understood and changing feedback mechanisms, nonlinear changes, and ecological thresholds. As noted, climate change alters baseline ecosystem conditions in ways that are currently beyond immediate human control,34 regardless of mitigation efforts. These baseline conditions include air, water, and land temperatures; hydrological conditions, including the form, timing, quality, and amount of precipitation, runoff, and groundwater flow; soil conditions; and air quality. Alterations in these basic ecological elements, in turn, are prompting shifts and rearrangements of species, food webs, ecosystem functions, and ecosystem services.35 Climate change thus complicates and even **obliterates familiar ecologies**, with regulatory and management consequences. Nor are these regulatory and management consequences an as-yet-still hypothetical problem. In February 2008, a group of researchers noted in Science that current water resource management in the developed world is grounded in the concept of stationarity - "the idea that natural systems fluctuate within an unchanging envelope of variability."36 However, because of climate change, "stationarity is dead."37 These researchers emphasized that impacts to water supplies from climate change are now projected to occur "during the multidecade lifetime of major water infrastructure projects" and are likely to be wide-ranging and pervasive, affecting every aspect of water supply.38 As a result, the researchers concluded that stationarity "should no longer serve as a central, default assumption in water-resource **risk assessment and planning**. Finding a suitable successor is crucial for human adaptation to changing climate."39 Further, these authors realized the critical question is what a successor regime to stationarity should look like. 40 With the onset of climate change impacts, humans have **decisively lost the capability** - to the extent that we ever had it - to dictate the status of ecosystems and their services. As a result, and perhaps heretically, this Article argues that, for adaptation purposes, we are better off treating climate change impacts as a rather than as anthropogenic disturbances, 41 with a consequent shift in regulatory focus: we cannot prevent all of climate change's impacts,42 but we can certainly improve the efficiency and effectiveness of our responses to them. As this slow-moving tsunami 43 bears down on us, some loss is inevitable - but loss of everything is not. Climate change is creating a world of triage, best guesses, and shifting sands, and the sooner we start adapting legal regimes to these new regulatory and management realities, the sooner we can marshal energy and resources into actions that will help humans, species, and ecosystems cope with the changes that are coming. Pg. 13-16

### Circumvention 2AC

#### Will comply – even if they disagree

Bradley and Morrison 13

[Curtis, William Van Alstyne Professor of Law, Duke Law School. and Trevor, Liviu Librescu Professor of Law, Columbia Law School, Presidential Power, Historical Practice, And Legal Constraint, 2013 Directors of The Columbia Law Review Association, Inc. Columbia Law Review May, 2013, L/N]

Insisting on a sharp distinction between the law governing presidential authority that is subject to judicial review and the law that is not also takes for granted a phenomenon that merits attention - that Presidents follow judicial decisions. n118 That assumption is generally accurate in the United States today. To take one relatively recent example, despite disagreeing with the Supreme Court's determination in Hamdan v. Rumsfeld that Common Article 3 of the Geneva Conventions applies to the war on terror, the Bush Administration quickly accepted it. n119 But the reason why Presidents abide by court decisions has a connection to the broader issue [\*1131] of the constraining effect of law. An executive obligation to comply with judicial decisions is itself part of the practice-based constitutional law of the United States, so presidential compliance with this obligation may demonstrate that such law can in fact constrain the President. This is true, as we explain further in Part III, even if the effect on presidential behavior is motivated by concerns about external political perceptions rather than an internal sense of fidelity to law (or judicial review). n120

#### Obama supports NEPA agency review

Goad & Kroh 13 -- \*Manager of Research and Outreach for American Progress’ Public Lands Project AND\*\* Deputy Editor of ClimateProgress, worked on the Energy policy team at American Progress as the Associate Director for Ocean Communications (Jessica and Kiley, 4/25/2013, "Using Executive Authority to Account for the Greenhouse-Gas Emissions of Federal Projects," http://www.americanprogress.org/issues/green/report/2013/04/25/61446/using-executive-authority-to-account-for-the-greenhouse-gas-emissions-of-federal-projects/)

While Congress has shown no signs that it will take action to address the growing threat of climate change, there are a number of executive authorities under existing laws to address the crisis. The National Environmental Policy Act, which requires analyses of the environmental impacts of federal activities, is frequently overlooked in this context but could be an important tool for assessing the potential climate impacts from a proposed project—a key first step in shaping informed decisions. The Council on Environmental Quality should finalize its draft guidance for federal agencies to include carbon pollution in NEPA analyses, and the president should issue an executive order on this subject to give it more clarity and permanence. Additionally, CEQ must be certain to include federal resource-management agencies in its final guidance. Burning the oil, coal, and natural gas that come from our public lands and waters accounts for nearly a quarter of all U.S. greenhouse-gas emissions. Ignoring the federal mineral estate in the guidance is leaving out a large portion of the federal governments’ activities related to climate change. As President Obama made clear in his 2013 State of the Union address: I will direct my cabinet to come up with executive actions we can take, now and in the future, to reduce pollution, prepare our communities for the consequences of climate change, and speed the transition to more sustainable sources of energy. Ensuring that federal agencies—especially the land- and ocean-management agencies—assess greenhouse-gas pollution generated by proposed federal actions when reviewing their impacts is an important step in making this promise a reality.

#### The military will comply

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Generally, the answer is that the military can be made to comply with laws that seek to resolve internationally significant environmental problems. In some instances, such as where they are main culprits in the causation of the problem, they can be the subject of particular treaties. This was the case with the testing of nuclear weapons in the atmosphere. In other instances, obligations can be placed upon them to control their pollutants, just as all other sectors within a country may be obligated to comply with agreed international rules. This is true with climate change, ozone depletion, and some persistent organic pollutants. Nonetheless, in some instances, the ability for the military to be granted exceptions exists, although they are rarely used. Rather, militaries have learned to adapt and comply with international standards.

### Simulation Good

#### Debate games open up dialogue which fosters information processing – they open up infinite frameworks making the game impossible

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Debate games are often based on pre-designed scenarios that include descriptions of issues to be debated, educational goals, game goals, roles, rules, time frames etc. In this way, debate games differ from textbooks and everyday classroom instruction as debate scenarios allow teachers and students to actively imagine, interact and communicate within a domain-specific game space. However, instead of mystifying debate games as a “magic circle” (Huizinga, 1950), I will try to overcome the epistemological dichotomy between “gaming” and “teaching” that tends to dominate discussions of educational games. In short, educational gaming is a form of teaching. As mentioned, education and games represent two different semiotic domains that both embody the three faces of knowledge: assertions, modes of representation and social forms of organisation (Gee, 2003; Barth, 2002; cf. chapter 2). In order to understand the interplay between these different domains and their interrelated knowledge forms, I will draw attention to a central assumption in Bakhtin’s dialogical philosophy. According to Bakhtin, all forms of communication and culture are subject to centripetal and centrifugal forces (Bakhtin, 1981). A centripetal force is the drive to impose one version of the truth, while a centrifugal force involves a range of possible truths and interpretations. This means that any form of expression involves a duality of centripetal and centrifugal forces: “Every concrete utterance of a speaking subject serves as a point where centrifugal as well as centripetal forces are brought to bear” (Bakhtin, 1981: 272). If we take teaching as an example, it is always affected by centripetal and centrifugal forces in the on-going negotiation of “truths” between teachers and students. In the words of Bakhtin: “Truth is not born nor is it to be found inside the head of an individual person, it is born between people collectively searching for truth, in the process of their dialogic interaction” (Bakhtin, 1984a: 110). Similarly, the dialogical space of debate games also embodies centrifugal and centripetal forces. Thus, the election scenario of The Power Game involves centripetal elements that are mainly determined by the rules and outcomes of the game, i.e. the election is based on a limited time frame and a fixed voting procedure. Similarly, the open-ended goals, roles and resources represent centrifugal elements and create virtually endless possibilities for researching, preparing, 51 presenting, debating and evaluating a variety of key political issues. Consequently, the actual process of enacting a game scenario involves a complex negotiation between these centrifugal/centripetal forces that are inextricably linked with the teachers and students’ game activities. In this way, the enactment of The Power Game is a form of teaching that combines different pedagogical practices (i.e. group work, web quests, student presentations) and learning resources (i.e. websites, handouts, spoken language) within the interpretive frame of the election scenario. Obviously, tensions may arise if there is too much divergence between educational goals and game goals. This means that game facilitation requires a balance between focusing too narrowly on the rules or “facts” of a game (centripetal orientation) and a focusing too broadly on the contingent possibilities and interpretations of the game scenario (centrifugal orientation). For Bakhtin, the duality of centripetal/centrifugal forces often manifests itself as a dynamic between “monological” and “dialogical” forms of discourse. Bakhtin illustrates this point with the monological discourse of the Socrates/Plato dialogues in which the teacher never learns anything new from the students, despite Socrates’ ideological claims to the contrary (Bakhtin, 1984a). Thus, discourse becomes monologised when “someone who knows and possesses the truth instructs someone who is ignorant of it and in error”, where “a thought is either affirmed or repudiated” by the authority of the teacher (Bakhtin, 1984a: 81). In contrast to this, dialogical pedagogy fosters inclusive learning environments that are able to expand upon students’ existing knowledge and collaborative construction of “truths” (Dysthe, 1996). At this point, I should clarify that Bakhtin’s term “dialogic” is both a descriptive term (all utterances are per definition dialogic as they address other utterances as parts of a chain of communication) and a normative term as dialogue is an ideal to be worked for against the forces of “monologism” (Lillis, 2003: 197-8). In this project, I am mainly interested in describing the dialogical space of debate games. At the same time, I agree with Wegerif that “one of the goals of education, perhaps the most important goal, should be dialogue as an end in itself” (Wegerif, 2006: 61).

### Warming Reps Good

#### Catastrophic warming reps are good—it’s the only way to motivate response—their empirics are attributable to climate denialism

Romm 12(Joe Romm is a Fellow at American Progress and is the editor of Climate Progress, which New York Times columnist Tom Friedman called "the indispensable blog" and Time magazine named one of the 25 “Best Blogs of 2010.″ In 2009, Rolling Stone put Romm #88 on its list of 100 “people who are reinventing America.” Time named him a “Hero of the Environment″ and “The Web’s most influential climate-change blogger.” Romm was acting assistant secretary of energy for energy efficiency and renewable energy in 1997, where he oversaw $1 billion in R&D, demonstration, and deployment of low-carbon technology. He is a Senior Fellow at American Progress and holds a Ph.D. in physics from MIT., 2/26/2012, “Apocalypse Not: The Oscars, The Media And The Myth of ‘Constant Repetition of Doomsday Messages’ on Climate”, http://thinkprogress.org/romm/2012/02/26/432546/apocalypse-not-oscars-media-myth-of-repetition-of-doomsday-messages-on-climate/#more-432546)

The two greatest myths about global warming communications are 1) constant repetition of doomsday messages has been a major, ongoing strategy and 2) that strategy doesn’t work and indeed is actually counterproductive! These myths are so deeply ingrained in the environmental and progressive political community that when we finally had a serious shot at a climate bill, the powers that be decided not to focus on the threat posed by climate change in any serious fashion in their $200 million communications effort (see my 6/10 post “Can you solve global warming without talking about global warming?“). These myths are so deeply ingrained in the mainstream media that such messaging, when it is tried, is routinely attacked and denounced — and the flimsiest studies are interpreted exactly backwards to drive the erroneous message home (see “Dire straits: Media blows the story of UC Berkeley study on climate messaging“) The only time anything approximating this kind of messaging — not “doomsday” but what I’d call blunt, science-based messaging that also makes clear the problem is solvable — was in 2006 and 2007 with the release of An Inconvenient Truth (and the 4 assessment reports of the Intergovernmental Panel on Climate Change and media coverage like the April 2006 cover of Time). The data suggest that strategy measurably moved the public to become more concerned about the threat posed by global warming (see recent study here). You’d think it would be pretty obvious that the public is not going to be concerned about an issue unless one explains why they should be concerned about an issue. And the social science literature, including the vast literature on advertising and marketing, could not be clearer **that only repeated messages have any chance of sinking in and moving the needle**. Because I doubt any serious movement of public opinion or mobilization of political action could possibly occur until these myths are shattered, I’ll do a multipart series on this subject, featuring public opinion analysis, quotes by leading experts, and the latest social science research. Since this is Oscar night, though, it seems appropriate to start by looking at what messages the public are exposed to in popular culture and the media. It ain’t doomsday. Quite the reverse, climate change has been mostly an invisible issue for several years and the message of conspicuous consumption and business-as-usual reigns supreme. The motivation for this post actually came up because I received an e-mail from a journalist commenting that the “constant repetition of doomsday messages” doesn’t work as a messaging strategy. I had to demur, for the reasons noted above. But it did get me thinking about what messages the public are exposed to, especially as I’ve been rushing to see the movies nominated for Best Picture this year. I am a huge movie buff, but as parents of 5-year-olds know, it isn’t easy to stay up with the latest movies. That said, good luck finding a popular movie in recent years that even touches on climate change, let alone one a popular one that would pass for doomsday messaging. Best Picture nominee The Tree of Life has been billed as an environmental movie — and even shown at environmental film festivals — but while it is certainly depressing, climate-related it ain’t. In fact, if that is truly someone’s idea of environmental movie, count me out. The closest to a genuine popular climate movie was the dreadfully unscientific The Day After Tomorrow, which is from 2004 (and arguably set back the messaging effort by putting the absurd “global cooling” notion in people’s heads! Even Avatar, the most successful movie of all time and “the most epic piece of environmental advocacy ever captured on celluloid,” as one producer put it, omits the climate doomsday message. One of my favorite eco-movies, “Wall-E, is an eco-dystopian gem and an anti-consumption movie,” but it isn’t a climate movie. I will be interested to see The Hunger Games, but I’ve read all 3 of the bestselling post-apocalyptic young adult novels — hey, that’s my job! — and they don’t qualify as climate change doomsday messaging (more on that later). So, no, the movies certainly don’t expose the public to constant doomsday messages on climate. Here are the key points about what repeated messages the American public is exposed to: The broad American public is exposed to virtually **no doomsday messages**, let alone constant ones, on climate change in popular culture (TV and the movies and even online). There is not one single TV show on any network devoted to this subject, which is, arguably, more consequential than any other preventable issue we face. The same goes for the news media, whose coverage of climate change has collapsed (see “Network News Coverage of Climate Change Collapsed in 2011“). When the media do cover climate change in recent years, the overwhelming majority of coverage is devoid of any doomsday messages — and many outlets still feature hard-core deniers. Just imagine what the public’s view of climate would be if it got the same coverage as, say, unemployment, the housing crisis or even the deficit? When was the last time you saw an “employment denier” quoted on TV or in a newspaper? The public is exposed to constant messages promoting business as usual and indeed idolizing conspicuous consumption. See, for instance, “Breaking: The earth is breaking … but how about that Royal Wedding? Our political elite and intelligentsia, including MSM pundits and the supposedly “liberal media” like, say, MSNBC, hardly even talk about climate change and when they do, it isn’t doomsday. Indeed, there isn’t even a single national columnist for a major media outlet who writes primarily on climate. Most “liberal” columnists rarely mention it. At least a quarter of the public chooses media that devote a vast amount of time to the notion that global warming is a hoax and that environmentalists are extremists and that clean energy is a joke. In the MSM, conservative pundits routinely trash climate science and mock clean energy. Just listen to, say, Joe Scarborough on MSNBC’s Morning Joe mock clean energy sometime. The major energy companies bombard the airwaves with millions and millions of dollars of repetitious pro-fossil-fuel ads. The environmentalists spend far, far less money. As noted above, the one time they did run a major campaign to push a climate bill, they and their political allies including the president explicitly did NOT talk much about climate change, particularly doomsday messaging Environmentalists when they do appear in popular culture, especially TV, are routinely mocked. There is very little mass communication of doomsday messages online. Check out the most popular websites. General silence on the subject, and again, what coverage there is ain’t doomsday messaging. Go to the front page of the (moderately trafficked) environmental websites. Where is the doomsday? If you want to find anything approximating even modest, blunt, science-based messaging built around the scientific literature, interviews with actual climate scientists and a clear statement that we can solve this problem — well, you’ve all found it, of course, but the only people who see it are those who go looking for it. Of course, this blog is not even aimed at the general public. Probably 99% of Americans haven’t even seen one of my headlines and 99.7% haven’t read one of my climate science posts. And Climate Progress is probably the most widely read, quoted, and reposted climate science blog in the world. Anyone dropping into America from another country or another planet who started following popular culture and the news the way the overwhelming majority of Americans do would get the distinct impression that **nobody who matters is terribly worried about climate change**. And, of course, they’d be right — see “The failed presidency of Barack Obama, Part 2.” It is total BS that somehow the American public **has been scared and overwhelmed by repeated doomsday messaging into some sort of climate fatigue**. If the public’s concern has dropped — and public opinion analysis suggests it has dropped several percent (though is bouncing back a tad) — that is **primarily due to the conservative media’s disinformation** **campaign** impact on Tea Party conservatives and to the treatment of this as a nonissue by most of the rest of the media, intelligentsia and popular culture.

### A2: Structural Violence

#### Structural violence is an empty term – they have to articulate a theory of violence in order to be analytically relevant

Lawler in 02 (Peter, Senior lecturer in international relations, University of Manchester, Peace Review; Mar2002, Vol. 14 Issue 1, p7)

My principal concern at the time was with the growing preoccupation of much of peace research (or peace studies) with the issue of “structural violence” and the pursuit of such goals as justice, human ful fi lment, or a more just world order—in short, the realization of positive peace. As laudable and important as such objectives clearly are, I was unconvinced at the time that peace research brought anything distinctive to them. Such concerns now lay at the heart of a wide range of social scienti fi c disciplines. Furthermore, the rapid expansion of post-positivist theorizing across the social sciences, perhaps most importantly in the fi elds of international relations and security studies, had eroded the normative distinctiveness of peace research to a signi fi cant extent. I went on to suggest that peace research might reacquire focus by self-consciously serving as a conduit between theoretical and conceptual developments across the social sciences and the continuing problem of direct violence within and between states. By this I did not mean that peace research should simply reduce itself to con ict analysis or return to the quasi-scientism of its foundational years. Rather, I envisaged a normatively informed peace research engaging critically with orthodox discourses (in the Foucauldian sense) of security and strategy. In more practical terms, I envisaged peace research as a site for cutting-edge research into the resolution of the various extremely violent conflicts that have marked the post-Cold-War era. Although such an engagement clearly requires consideration of the structural impetuses to the outbreak of violence, I did not see the analysis of the origins and development of such things as exploitation and poverty as the appropriate primary focus of peace research. Why? Because I felt this contributed to the dissipation of peace research’s impact. This would continue the problem of peace research being perceived as the conceptually impoverished cousin of various other disciplines, such as political economy, sociology and so on, where research into such issues is vastly more diverse and developed. My book hardly  ew off the shelves in vast numbers, nor did my observations cause much of a ripple in peace research circles. Galtung’s own response was con fi ned to a couple of dismissive sentences in the introduction to one of his recent books. Most reactions to my argument arose in the context of presentations by myself at conferences, seminars and such. Of those who did comment, in writing or to me personally, a minority supported my sentiments but the majority took the view that I was arguing for peace research effectively to shift back to a focus on negative peace and this could hardly be a forward step. Some accused me of being conservative, reactionary even. I now teach and research primarily in the fi eld of international relations and here, by contrast, the perception that I am a critic of peace research, and Galtung in particular, has generally met with either approval or acute disinterest. This is in spite of the fact that many, although by no means all, of my disciplinary colleagues apparently share the normative sentiments of many peace researchers. In other words, for many international relations scholars, peace research continues to have an image problem. True, the crassest form of an international relations critique of peace research still falls back on the tired dualism of realism versus idealism, with peace research fi rmly and pejoratively located within the latter. A more serious critique, however, revolves around three common perceptions of peace research: the absence of a substantial theoretical or conceptual core, a tendency to deploy uncritically key terms such as “structural violence” or “positive peace,” and an unclear standpoint with regard to direct violence, particularly the use of violence in the pursuit of justice or other values. These themes, threaded through my own analysis of Galtungian peace research, led me to the conclusion that, in spite of an overt value orientation, peace research **could not provide an adequate account of its own normative nature**.