## 1AC

### 1AC – Advantage 1

#### CONTENTION 1: GENEVA

#### violations spill over to end Geneva

Tom Malinowski 7, Washington Advocacy Director, Human Rights Watch, Washington, DC, Congressional Testimony, <http://www.gpo.gov/fdsys/pkg/CHRG-110shrg40379/html/CHRG-110shrg40379.htm>

Or, just for the sake of argument, imagine if the President of Russia declared that his country was engaged in a global war on terror, and that anyone with any connection to any group that supported separatist elements in places like Chechnya was a combatant in that war who could be detained or shot or poisoned wherever he was found, whether in Moscow or Berlin or just for the sake of argument, London. Clearly, we live in a world in which such things are possible. But do we want to live in a world where they are considered legitimate? That is what is at stake here. Whether we will preserve the legal and moral rules we have struggled to develop over generations to limit what governments--and here I mean not just the United States but all governments--**can** and can't **do** to people in their power. And whether the United States will have the credibility to be the world's preeminent champion of those rules**.** Now, it is important to note that nothing the administration has done can compare in its scale to what happens every day to victims of cruel dictatorship around the world. The United States is not Sudan or Cuba or North Korea. The United States is an open, democratic country with strong institutions--its Congress, its courts, its professional military leadership--which are striving to undo these mistakes and uphold the rule of law. But the United States is also the most influential country on the face of the earth. The United States is a standard setter in everything it does, for better or for worse. When Saddam Hussein tortures a thousand people in a dark dungeon, when Kim Jong Il throws a hundred thousand people in a prison camp without any judicial process, no one says: ``Hey, if those dictators can do that, it's legitimate, and therefore so can we.'' But when the United States bends the rules to torture or to secretly and unlawfully detain **even one person, when the country that is supposed to be the world's leading protector of human rights begins to do--and to justify--such things, then all bets are off. The entire framework upon which we depend to protect human rights--from the Geneva Conventions and treaties against torture--begins to fall apart**.

#### That causes global war --- US forces will be targeted

Steven R. Ratner 8, Law Professor at University of Michigan, “Think Again: Geneva Conventions,” 2/19, http://www.foreignpolicy.com/articles/2008/02/19/think\_again\_geneva\_conventions?page=0,6

“No Nation Flouts the Geneva Conventions More than the United States” That’s absurd. When bullets start flying, rules get broken. The degree to which any army adheres to the Geneva Conventions is typically a product of its professionalism, training, and sense of ethics. On this score, U.S. compliance with the conventions has been admirable, far surpassing many countries and guerrilla armies that routinely ignore even the most basic provisions. The U.S. military takes great pride in teaching its soldiers civilized rules of war: to preserve military honor and discipline, lessen tensions with civilians, and strive to make a final peace more durable. Contrast that training with Eritrea or Ethiopia, states whose ill-trained forces committed numerous war crimes during their recent border war, or Guatemala, whose army and paramilitaries made a policy of killing civilians on an enormous scale during its long civil conflict. More importantly, the U.S. military cares passionately that other states and nonstate actors follow the same rules to which it adheres, because U.S. forces, who are deployed abroad in far greater numbers than troops from any other nation, are most likely to be harmed if the conventions are discarded. Career U.S. military commanders and lawyers have consistently opposed the various reinterpretations of the conventions by politically appointed lawyers in the Bush White House and Justice Department for precisely this reason. It is enormously important that the United States reaffirms its commitment to the conventions, for the sake of the country’s reputation and that of the conventions. Those who rely on the flawed logic that because al Qaeda does not treat the conventions seriously, neither should the United States fail to see not only the chaos the world will suffer in exchange for these rules; they also miss the fact that the United States will have traded basic rights and protections harshly learned through thousands of years of war for the nitpicking decisions of a small group of partisan lawyers huddled in secret. Rather than advancing U.S. interests by following an established standard of behavior in this new type of war, the United States—and any country that chooses to abandon these hard-won rules—risks basing its policies on narrow legalisms. In losing sight of the crucial protections of the conventions, the United States invites a world of wars in which laws disappear. And the horrors of such wars would far surpass anything the war on terror could ever deliver.

#### Additionally, a strong Geneva is key to prevent CBW use

GCSP 5 Geneva Centre for Security Policy, “Biological and Chemical Weapons Seminar,” June 2005, <http://www.gcsp.ch/e/meetings/Security_Challenges/WMD/Meeting_Conf/2005/BC%20Weapons%20Seminar/summary.htm>

On 9-10 June 2005, the GCSP hosted an international seminar initiated by France and Switzerland on the occasion of the 80th anniversary of the signing of the Geneva Protocol prohibiting the Use of Chemical and Bacteriological Weapons in collaboration with the United Nations Institute for Disarmament Research (UNIDIR). Over 100 participants attended the event, representing 39 States Parties, 8 UN agencies and the European Union, 12 non-governmental organisations and 10 media organisations. Ambassador Raimund Kunz, Head of the Directorate of Security Policy of the Swiss Defence Department, and Ambassadors François Rivasseau and Jürg Streuli, respectively the French and Swiss Permanent Representatives to the Conference on Disarmament, opened the seminar. The first session considered the historical background to the adoption of the 1925 Geneva Protocol and why its prohibition was extended to include bacteriological weapons, and the philosophical and ethical reasons for preserving humankind from the scourge of weapons of mass destruction. The second session considered the current situation and why there is a continuing threat from biological weapons, including from non-State actors, as well as the measures that should be taken to counter this threat, including inter-governmental cooperation through Interpol. The WHO presented the global health response to epidemics, caused naturally, accidentally or deliberately, and the International Organisation for Animal Health (OIE) described its policies to prevent or cure animal epidemics. The session also considered the implications of industrial and scientific developments in biology and biotechnology as well as legal and ethical measures in relation to bio-security. The third session examined the possible responses of international law, including the classical rules of humanitarian law relating to poisoning and the deliberate spread of disease as related to modern responsibilities, and responses that could be based on traditional instruments of disarmament, namely the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention. The final session considered emergency responses to the threat of biological and chemical weapons. The French Head of the MFA Disarmament Unit took stock of the implementation of the Chemical Weapons Convention and the UK Permanent Representative to the Conference on Disarmament, President of the Biological and Toxin Weapons Convention Review Process, envisaged what the States Parties to the Convention might do at the Sixth Review Conference in 2006. Then the seminar considered the actions taken by groups of States such as the G8 (Global Partnership against Weapons of Mass Destruction) and the European Union (Common Strategy on the Non-Proliferation of WMD) to strengthen the regimes prohibiting chemical and biological weapons, as well as the implementation of the UN Security Council Resolution 1540 (2004). Thanks in particular to the active presence of NGOs, think tanks and journalists, the seminar was lively with a rich debate following the presentations that covered much ground and led to the recognition of a number of conclusions and points for further consideration: The 1925 Geneva Protocol was the cornerstone of a multilateral regime that now, through the 1972 Biological Weapons Convention and the 1993 Chemical Weapons Convention, totally prohibits not only the use but also the production and **possession of both chemical and biological weapons.**

#### Bioweapons cause extinction

Anders Sandberg 8, is a James Martin Research Fellow at the Future of Humanity Institute at Oxford University; Jason G. Matheny, PhD candidate in Health Policy and Management at Johns Hopkins Bloomberg School of Public Health and special consultant to the Center for Biosecurity at the University of Pittsburgh Medical Center; Milan M. Ćirković, senior research associate at the Astronomical Observatory of Belgrade and assistant professor of physics at the University of Novi Sad in Serbia and Montenegro, 9/8/8, “How can we reduce the risk of human extinction?,” Bulletin of the Atomic Scientists,<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

#### Independently, failure to establish a restrictive detention statute weakens US non-prolif leadership---causes Iranian nuclearization

AFP 13, "US raid in Libya renews legality questions", October 9, tribune.com.pk/story/615628/us-raid-in-libya-renews-legality-questions/

But Turner said it was critical for the United States to provide a legal justification.¶ “If we start saying our obligations don’t count because we’re the biggest gorilla in the zoo, we’re not going to have a strong case to tell the Iranians or North Koreans or anyone else that they need to observe their non-proliferation obligations,” he said.¶ In 2003, the CIA snatched the cleric Mustafa Osama Nasr on the streets of Milan and sent him to his native Egypt, where his lawyers said he was tortured. An Italian court later sentenced 23 CIA agents to prison in absentia, despite speculation that then prime minister Silvio Berlusconi had quietly approved the operation.¶ US authorities are likely to send Libi to face trial after he is interrogated aboard the warship, reportedly the USS San Antonio.¶ In a prior precedent for the Obama administration, Ahmed Abdulkadir Warsame – a Somali with alleged al Qaeda ties – was brought to New York for trial in 2011 after being interrogated for more than two months aboard the USS Boxer.¶ “The same kinds of concerns and issues arise here in that the administration seems to be relying on law of war rationales to escape the constraints that apply under the criminal justice system,” said Hina Shamsi, director of the American Civil Liberties Union’s National Security Project.¶ Article 22 of the Third Geneva Convention on the rules of war forbids holding prisoners on boats. But the Bush administration began arguing that terrorism suspects were not prisoners of war.

#### Iran nuclearization leads to rapid escalation and nuclear war

Jeffrey Goldberg 12, Bloomberg View columnist and a national correspondent for the Atlantic, January 23, 2012, “How Iran Could Trigger Accidental Armageddon,” online: http://www.bloomberg.com/news/2012-01-24/how-iran-may-trigger-accidental-armageddon-commentary-by-jeffrey-goldberg.html

One of the arguments often made in favor of bombing Iran to cripple its nuclear program is this: The mullahs in Tehran are madmen who believe it is their consecrated duty to destroy the perfidious Zionist entity (which is to say, Israel) and so are building nuclear weapons to launch at Tel Aviv at the first favorable moment.¶ It’s beyond a doubt that the Iranian regime would like to bring about the destruction of Israel. However, the mullahs are also cynics and men determined, more than anything, to maintain their hold on absolute power.¶ Which is why it’s unlikely that they would immediately use their new weapons against Israel. An outright attack on Israel - - a country possessing as many as 200 nuclear weapons and sophisticated delivery systems -- would lead to the obliteration of Tehran, the deaths of millions, and the destruction of Iran’s military and industrial capabilities.¶ The mullahs know this. But here’s the problem: It may not matter. The threat of a deliberate nuclear attack pales in comparison with the chance that a nuclear-armed Iran could accidentally trigger a cataclysmic exchange with Israel.¶ Warp-Speed Escalation¶ The experts who study this depressing issue seem to agree that a Middle East in which Iran has four or five nuclear weapons would be dangerously unstable and prone to warp-speed escalation.¶ Here’s one possible scenario for the not-so-distant future: Hezbollah, Iran’s Lebanese proxy, launches a cross-border attack into Israel, or kills a sizable number of Israeli civilians with conventional rockets. Israel responds by invading southern Lebanon, and promises, as it has in the past, to destroy Hezbollah. Iran, coming to the defense of its proxy, warns Israel to cease hostilities, and leaves open the question of what it will do if Israel refuses to heed its demand.¶ Dennis Ross, who until recently served as President Barack Obama’s Iran point man on the National Security Council, notes Hezbollah’s political importance to Tehran. “The only place to which the Iranian government successfully exported the revolution is to Hezbollah in Lebanon,” Ross told me. “If it looks as if the Israelis are going to destroy Hezbollah, you can see Iran threatening Israel, and they begin to change the readiness of their forces. This could set in motion a chain of events that would be like ‘Guns of August’ on steroids.”¶ Imagine that Israel detects a mobilization of Iran’s rocket force or the sudden movement of mobile missile launchers. Does Israel assume the Iranians are bluffing, or that they are not? And would Israel have time to figure this out? Or imagine the opposite: Might Iran, which will have no second-strike capability for many years -- that is, no reserve of nuclear weapons to respond with in an exchange -- feel compelled to attack Israel first, knowing that it has no second chance?¶ Bruce Blair, the co-founder of the nuclear disarmament group Global Zero and an expert on nuclear strategy, told me that in a sudden crisis Iran and Israel might each abandon traditional peacetime safeguards, making an accidental exchange more likely.¶ “A confrontation that brings the two nuclear-armed states to a boiling point would likely lead them to raise the launch- readiness of their forces -- mating warheads to delivery vehicles and preparing to fire on short notice,” he said. “Missiles put on hair-trigger alert also obviously increase the danger of their launch and release on false warning of attack -- false indications that the other side has initiated an attack.”¶ Then comes the problem of misinterpreted data, Blair said. “Intelligence failures in the midst of a nuclear crisis could readily lead to a false impression that the other side has decided to attack, and induce the other side to launch a preemptive strike.”¶ ‘Cognitive Bias’¶ Blair notes that in a crisis it isn’t irrational to expect an attack, and this expectation makes it more likely that a leader will read the worst into incomplete intelligence. “This predisposition is a cognitive bias that increases the danger that one side will jump the gun on the basis of incorrect information,” he said.¶ Ross told me that Iran’s relative proximity to Israel and the total absence of ties between the two countries -- the thought of Iran agreeing to maintain a hot line with a country whose existence it doesn’t recognize is far-fetched -- make the situation even more hazardous. “This is not the Cold War,” he said. “In this situation we don’t have any communications channels. Iran and Israel have zero communications. And even in the Cold War we nearly had a nuclear war. We were much closer than we realized.”¶ The answer to this predicament is to deny Iran nuclear weapons, but not through an attack on its nuclear facilities, at least not now. “The liabilities of preemptive attack on Iran’s nuclear program vastly outweigh the benefits,” Blair said. “But certainly Iran’s program must be stopped before it reaches fruition with a nuclear weapons delivery capability.”

#### No defense---lack of C&C and poly-nuclear strategic dynamics

Shmuel Bar 13, director of studies at the Institute of Policy and Strategy in Herzliya, Israel, February, “The Dangers of a Poly-Nuclear Mideast,” Hoover Policy Review, <http://www.hoover.org/publications/policy-review/article/139416>

The likelihood that the current efforts to prevent Iran from acquiring a military nuclear capability may fail has raised debate in academic and strategic communities regarding the implications of a “poly-nuclear” Middle East, which may include after Iran states such as Saudi Arabia (under the current or a future more-jihadi-oriented regime), Turkey, Egypt (under the Muslim Brotherhood regime), Syria (or a successor state/states thereof), Iraq (or successor states) and Libya. Some respected strategic theorists regard the Cold War experience as highly relevant to such a scenario and point at the fears that permeated the western military establishments of a nuclear China and the fact that a nuclear Indian subcontinent did not result in nuclear war, despite mutual hostility and frequent outbreaks of crisis. Kenneth Waltz even suggests that the very possession of nuclear weapons tempers military adventurism and inculcates a degree of strategic responsibility commensurate with the grave consequences that would result from nuclear conflict.1¶ However, two decades after the Cold War, it is clear that it was not only deterrence based on mutually assured destruction (mad) that prevented outbreak of nuclear war between the two superpowers, but also the stringent procedures of command and control over the nuclear arsenals that reduced the risks of their use in escalation scenarios or unauthorized use. Furthermore, it is clearer today than during the Cold War that the “culture” of command and control differed considerably in the different nuclear countries and was influenced by military structure, political culture, and levels of confidence of the political leadership in the military.2 Therefore, even if we assume that the leaderships of the region will normally wish to avoid nuclear confrontation, it behooves us to explore the command, control, communication (c3) and Intelligence (c3i) capabilities that may be applied in these countries. ¶ There are no indications that any Middle Eastern Muslim country — with the possible exception of Iran — has begun to develop a doctrine for use and command and control of such weapons. In the veteran nuclear powers, such doctrines and command and control systems developed over the years through constant processes of design, planning and exercises, and involvement of the academic community. In the types of regimes that exist in the Middle East, on the other hand, it is reasonable to assume that such methodical planning will not take place and doctrine will evolve through discussions between the leadership and a small circle of trusted advisors. The chosen paradigms of command and control will, however, be influenced by the cultural, political, and organizational features of these regimes, such as: ¶ Personalized or religiously motivated leaderships.¶ Islamic views regarding the nature and role of nuclear weapons and the moral permissibility of using nuclear weapons.¶ Existing c3 of existing “strategic weapons” (chemical, biological, ssm) and existing c3 in conventional situations — levels of centralization, culture of delegation of authority, levels of trust in the regular military as opposed to special regime guards forces.¶ Willingness to incur civilian casualties by deployment of weapons in highly populated areas.¶ Nuclear aspirations in the Middle East have been motivated by a variety of considerations: deterrence, a need for a weapon of compellence, honor, regional and international stature, and others. The motivation to acquire nuclear weapons and the circumstances through which the state achieves nuclear weapons will influence the development of c3 and the considerations that will guide the operational concept. Some (such as Iran) may see nuclear weapons as a means to undermine the balance of power in the region. Others may see them as necessary in order to counterbalance the former. In any case, the strategic environment of a poly-nuclear Middle East will be exceedingly dynamic and even volatile. It will differ from the stability of the latter part of the Cold War3 — and will probably be more like the instability of its early years, but with many nuclear players. In such a volatile environment, the paradigms of command and control may mean the difference between controlled tensions and nuclear confrontation.

### 1AC – Advantage 2

#### CONTENTION 2: NAVAL OVERSTRETCH

#### Continued U.S. naval superiority is key to growth, trade, preventing South China Sea and Arctic conflict as well as effective disaster response

J. Randy Forbes 14, Chairman of the House Armed Services Seapower and Projection Forces subcommittee, currently co-leading a bipartisan Asia-Pacific Security Series for the House Armed Services Committee, 3/14, Revitalize American Sea Power, Proceedings Magazine, <http://www.usni.org/magazines/proceedings/2014-03/revitalize-american-sea-power>

Failing to bolster the U.S. Navy in the face of 21st-century maritime threats could prove disastrous to the international order.¶ The year 2014 promises to be exceedingly important for the future of America’s Navy. As the Pentagon and Congress face continued budget reductions and the Department of Defense is forced to weigh its priorities, the contours of American sea power and our global commitment to an expeditionary posture are at stake. Indeed, the choices made in just the next several years will lock in major trends in shipbuilding, naval aviation, and important research-and-development (R&D) efforts that will define the Navy of the 2020s and beyond.¶ American economic prosperity and national security have always been tied to the sea in some form. More than two centuries ago, George Washington wrote of the need, “as certain as that night succeeds the day,” for effective sea power to achieve decisive military outcomes. Writing long before theorists like Alfred Thayer Mahan or Julian Corbett were heard from, Washington opined that success on land required superiority at sea. 1 Our nation’s first foreign conflicts, the Barbary Wars at the dawn of the 19th century, were undertaken to secure global maritime trade against the scourge of international piracy. The growing U.S. ability to defend the maritime commons and project power abroad increased international respect for our fledgling nation and began America’s ascent as a great power. Like Great Britain in an earlier era, the United States has used its maritime supremacy to construct an international order predicated on a commitment to unrestricted access to the global commons and deterrence of regional aggression.¶ Under the latent protection of U.S. maritime power, international commerce and prosperity has expanded exponentially. Ninety percent of global trade by volume is seaborne, and the tonnage shipped is expected to more than double by 2030. 2 Our economy has derived tremendous benefit from the maritime stability that results in robust trade; sea power thus helps pay for itself. Undersea cables have tied continents together through affordable, prompt communication lines. More than 30 percent of global oil production, including 34 percent of U.S. production, is from offshore sources, and that percentage is rising. 3 The sea will also become an important space for renewable energy, ensuring a continued role in American energy security. These forces are essential to not just the American economy, but the very financial system that underpins our international order.¶ If one surveys the list of challenges faced by the U.S. Navy today and in the near future, the scope and scale of potential maritime insecurity becomes apparent. The East and South China Seas feature contentious maritime territorial disputes that threaten to be diplomatic battlefields for future great-power conflict. The Strait of Hormuz is consistently threatened with closure by Iran, either directly or through non-state entities. Thawing Arctic ice has created a new arena for geopolitical competition and prompted DOD to release its first Arctic Strategy. 4 Somali piracy cost the global economy roughly $6 billion in 2012, and piracy is growing elsewhere in the world. 5 Maritime trafficking of drugs and arms has become increasingly sophisticated as smugglers turn to submarines and unmanned vessels to evade detection. The protection of energy infrastructure should not be taken for granted, either, as witnessed by insurgent attacks on offshore oil rigs in the Gulf of Guinea and the proliferation of low-cost means to disrupt energy production available to non-state actors. 6 These are just the sea-based challenges to the current U.S.-shaped international order and do not include the land, air, or strategic challenges the U.S. Navy addresses on a daily basis. ¶ Without a strong Navy to underpin American economic strategy, many aspects of U.S. foreign policy would become untenable, including encouraging and protecting international trade, resisting the aggressive ambitions of rising powers, or projecting force to achieve a diverse array of objectives. The Navy–Marine Corps team is a versatile force that can be tailored for a range of military, diplomatic, or humanitarian missions. In times of peace, naval forces serve as formidable reminders of American presence, improve relations with foreign navies, and respond to humanitarian disasters. In a crisis short of conflict, naval forces can demonstrate the consequences of belligerence to adversaries through exercises with allies and partners. And should a crisis ensue, our Navy–Marine Corps team provides policymakers with scalable capabilities from passive deterrence to various forms of kinetic operations. To quote former Chief of Naval Operations Admiral Arleigh Burke, with so many different uses of sea power available, “the instruments of warfare are not solely for waging war.” 7 Instead, they augment American power across myriad domains and allow decision makers in Washington to ensure a stable, prosperous order.

**Trade and growth prevent global nuclear war**

Michael, **Panzner 8** faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase Financial Armageddon: Protect Your Future from Economic Collapse, Revised and Updated Edition, p. 136-138, Google Books

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of **tit-for-tat** economic **responses**, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating **global disaster**, But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange, foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the (heap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more **heated arguments and dangerous confrontations** over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to **full-scale military encounters,** often with **minimal provocation**. In some instances, economic conditions will serve as a convenient **pretext for conflicts** that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more healed sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an "intense confrontation" between the United States and China is "inevitable" at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also **degenerate quickly**, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing **biological or nuclear weapons** will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as **the beginnings of a new world war.**

SCS conflict causes extinction

Lawrence S. Wittner 11, Emeritus Professor of History at the State University of New York/Albany, 11/28/, "Is a Nuclear War With China Possible?", www.huntingtonnews.net/14446

While nuclear weapons exist, there remains a danger that they will be used. After all, for centuries national conflicts have led to wars, with nations employing their deadliest weapons. The current deterioration of U.S. relations with China might end up providing us with yet another example of this phenomenon. The gathering tension between the United States and China is clear enough. Disturbed by China’s growing economic and military strength, the U.S. government recently challenged China’s claims in the South China Sea, increased the U.S. military presence in Australia, and deepened U.S. military ties with other nations in the Pacific region. According to Secretary of State Hillary Clinton, the United States was “asserting our own position as a Pacific power.” But need this lead to nuclear war? Not necessarily. And yet, there are signs that it could. After all, both the United States and China possess large numbers of nuclear weapons. The U.S. government threatened to attack China with nuclear weapons during the Korean War and, later, during the conflict over the future of China’s offshore islands, Quemoy and Matsu. In the midst of the latter confrontation, President Dwight Eisenhower declared publicly, and chillingly, that U.S. nuclear weapons would “be used just exactly as you would use a bullet or anything else.” Of course, China didn’t have nuclear weapons then. Now that it does, perhaps the behavior of national leaders will be more temperate. But the loose nuclear threats of U.S. and Soviet government officials during the Cold War, when both nations had vast nuclear arsenals, should convince us that, even as the military ante is raised, nuclear saber-rattling persists. Some pundits argue that nuclear weapons prevent wars between nuclear-armed nations; and, admittedly, there haven’t been very many—at least not yet. But the Kargil War of 1999, between nuclear-armed India and nuclear-armed Pakistan, should convince us that such wars can occur. Indeed, in that case, the conflict almost slipped into a nuclear war. Pakistan’s foreign secretary threatened that, if the war escalated, his country felt free to use “any weapon” in its arsenal. During the conflict, Pakistan did move nuclear weapons toward its border, while India, it is claimed, readied its own nuclear missiles for an attack on Pakistan. At the least, though, don’t nuclear weapons deter a nuclear attack? Do they? Obviously, NATO leaders didn’t feel deterred, for, throughout the Cold War, NATO’s strategy was to respond to a Soviet conventional military attack on Western Europe by launching a Western nuclear attack on the nuclear-armed Soviet Union. Furthermore, if U.S. government officials really believed that nuclear deterrence worked, they would not have resorted to championing “Star Wars” and its modern variant, national missile defense. Why are these vastly expensive—and probably unworkable—military defense systems needed if other nuclear powers are deterred from attacking by U.S. nuclear might? Of course, the bottom line for those Americans convinced that nuclear weapons safeguard them from a Chinese nuclear attack might be that the U.S. nuclear arsenal is far greater than its Chinese counterpart. Today, it is estimated that the U.S. government possesses over five thousand nuclear warheads, while the Chinese government has a total inventory of roughly three hundred. Moreover, only about forty of these Chinese nuclear weapons can reach the United States. Surely the United States would “win” any nuclear war with China. But what would that “victory” entail? A nuclear attack by China would immediately slaughter at least 10 million Americans in a great storm of blast and fire, while leaving many more dying horribly of sickness and radiation poisoning. The Chinese death toll in a nuclear war would be far higher. Both nations would be reduced to smoldering, radioactive wastelands. Also, radioactive debris sent aloft by the nuclear explosions would blot out the sun and bring on a “nuclear winter” around the globe—destroying agriculture, creating worldwide famine, and generating chaos and destruction.

#### Arctic conflict risk high now

Pilita Clark 13, Financial Times, "Environment: Frozen frontiers", 2/6, www.ft.com/intl/cms/s/2/a51a35e2-704c-11e2-ab31-00144feab49a.html#axzz2KSkdFR00

Yet this is only the latest sign of a surge in diplomatic, commercial and scientific activity in one of the world’s last unspoilt wildernesses. Much of this Arctic awakening is being driven by the belief that rapidly melting Arctic ice will unleash access to more than a fifth of the world’s undiscovered oil and gas deposits, plus a lot of fish and tourist attractions.¶ So far, it has unfolded peacefully. But two distinct schools of thought are emerging about whether it will stay this way or eventually erupt into what Scott Borgerson, a US maritime policy specialist, has described as “an armed mad dash” for resource spoils in a region that never expected to need the rules to prevent such chaos.¶ “Either outcome is possible,” says Canadian academic, Michael Byers, author of Who Owns the Arctic? Right now, he says, “there is a concerted effort on the part of all the Arctic countries to steer future development towards co-operation and away from conflict”.¶ But doubts persist. “It sounds like Europe in 1935,” says Rob Huebert of the University of Calgary’s Centre for Military and Strategic Studies, the co-author of a study showing that some Arctic countries, including Russia, have already started rebuilding their Arctic military capabilities while others have plans to follow.¶ Such is the uncertain backdrop to a region producing more surprises each year, not least in the shipping trade.

#### Goes nuclear

Wallace and Staples 10 Michael Wallace is Professor Emeritus at the University of British Columbia; Steven Staples is President of the Rideau Institute in Ottawa, March 2010, “Ridding the Arctic of Nuclear Weapons A Task Long Overdue”, http://www.arcticsecurity.org/docs/arctic-nuclear-report-web.pdf

The fact is, the Arctic is becoming a zone of increased military competition. Russian President Medvedev has announced the creation of a special military force to defend Arctic claims. Last year Russian General Vladimir Shamanov declared that Russian troops would step up training for Arctic combat, and that Russia’s submarine fleet would increase its “operational radius.” Recently, two Russian attack submarines were spotted off the U.S. east coast for the first time in 15 years. In January 2009, on the eve of Obama’s inauguration, President Bush issued a National Security Presidential Directive on Arctic Regional Policy. It affirmed as a priority the preservation of U.S. military vessel and aircraft mobility and transit throughout the Arctic, including the Northwest Passage, and foresaw greater capabilities to protect U.S. borders in the Arctic. The Bush administration’s disastrous eight years in office, particularly its decision to withdraw from the ABM treaty and deploy missile defence interceptors and a radar station in Eastern Europe, have greatly contributed to the instability we are seeing today, even though the Obama administration has scaled back the planned deployments. The Arctic has figured in this renewed interest in Cold War weapons systems, particularly the upgrading of the Thule Ballistic Missile Early Warning System radar in Northern Greenland for ballistic missile defence. The Canadian government, as well, has put forward new military capabilities to protect Canadian sovereignty claims in the Arctic, including proposed ice-capable ships, a northern military training base and a deep-water port. Earlier this year Denmark released an all-party defence position paper that suggests the country should create a dedicated Arctic military contingent that draws on army, navy and air force assets with shipbased helicopters able to drop troops anywhere. Danish fighter planes would be tasked to patrol Greenlandic airspace. Last year Norway chose to buy 48 Lockheed Martin F-35 fighter jets, partly because of their suitability for Arctic patrols. In March, that country held a major Arctic military practice involving 7,000 soldiers from 13 countries in which a fictional country called Northland seized offshore oil rigs. The manoeuvres prompted a protest from Russia – which objected again in June after Sweden held its largest northern military exercise since the end of the Second World War. About 12,000 troops, 50 aircraft and several warships were involved. Jayantha Dhanapala, President of Pugwash and former UN under-secretary for disarmament affairs, summarized the situation bluntly: “From those in the international peace and security sector, deep concerns are being expressed over the fact that two nuclear weapon states – the United States and the Russian Federation, which together own 95 per cent of the nuclear weapons in the world – converge on the Arctic and have competing claims. These claims, together with those of other allied NATO countries – Canada, Denmark, Iceland, and Norway – could, if unresolved, lead to conflict escalating into the threat or use of nuclear weapons.” Many will no doubt argue that this is excessively alarmist, but no circumstance in which nuclear powers find themselves in military confrontation can be taken lightly. The current geo-political threat level is nebulous and low – for now, according to Rob Huebert of the University of Calgary, “[the] issue is the uncertainty as Arctic states and non-Arctic states begin to recognize the geo-political/economic significance of the Arctic because of climate change.”

#### Inadequate response to disasters results in disease outbreak

Syed Aljunid et al 12, Professor of Health Economics and Senior Research Fellow at UNU International Institute for Global Health, Kouadio Koffi Isidore, Postdoctoral Fellow at United Nations University International Institute for Global Health, Taro Kamigaki, Assistant Professor, at the Department of Virology of Tohoku University Graduate School of Medicine, Karen Hammad, Australian emergency nurse and Lecturer at the School of Nursing and Midwifery, Flinders University and Hitoshi Oshitani, Professor of Virology at Tohoku University Graduate School of Medicine, "Preventing and controlling infectious diseases after natural disasters", March 13, United Nations University, unu.edu/publications/articles/preventing-and-controlling-infectious-diseases-after-natural-disasters.html#info

Beyond damaging and destroying physical infrastructure, natural disasters can lead to outbreaks of infectious disease. In this article, two UNU-IIGH researchers and colleagues review risk factors and potential infectious diseases resulting from the secondary effects of major natural disasters that occurred from 2000 to 2011, classify possible diseases, and give recommendations on prevention, control measures and primary healthcare delivery improvements.¶ Over the past few decades, the incidence and magnitude of natural disasters has grown, resulting in substantial economic damages and affecting or killing millions of people. Recent disasters have shown that even the most developed countries are vulnerable to natural disasters, such as Hurricane Katrina in the United States in 2005 and the Great Eastern Japan Earthquake and tsunami in 2011. Global population growth, poverty, land shortages and urbanization in many countries have increased the number of people living in areas prone to natural disasters and multiplied the public health impacts.¶ Natural disasters can be split in three categories: hydro-meteorological disasters, geophysical disasters and geomorphologic disasters.¶ Hydro-meteorological disasters, like floods, are the most common (40 percent) natural disasters worldwide and are widely documented. The public health consequences of flooding are disease outbreaks mostly resulting from the displacement of people into overcrowded camps and cross-contamination of water sources with faecal material and toxic chemicals. Flooding also is usually followed by the proliferation of mosquitoes, resulting in an upsurgence of mosquito-borne diseases such as malaria. Documentation of disease outbreaks and the public health after-effects of tropical cyclones (hurricanes and typhoons) and tornadoes, however, is lacking.¶ Geophysical disasters are the second-most reported type of natural disaster, and earthquakes are the majority of disasters in this category. Outbreaks of infectious diseases may be reported when earthquake disasters result in substantial population displacement into unplanned and overcrowded shelters, with limited access to food and safe water. Disease outbreaks may also result from the destruction of water/sanitation systems and the degradation of sanitary conditions directly caused by the earthquake. Tsunamis are commonly associated with earthquakes, but can also be caused by powerful volcanic eruptions or underwater landslides. Although classified as geophysical disasters, they have a similar clinical and threat profile (water-related consequences) to that of tropical cyclones (e.g., typhoon or hurricane).¶ Geomorphologic disasters, such as avalanches and landslides, also are associated with infectious disease transmissions and outbreaks, but documentation is generally lacking.¶ After a natural disaster¶ The overwhelming majority of deaths immediately after a natural disaster are directly associated with blunt trauma, crush-related injuries and burn injuries. The risk of infectious disease outbreaks in the aftermath of natural disasters has usually been overemphasized by health officials and the media, leading to panic, confusion and sometimes to unnecessary public health activities.¶ The prolonged health impact of natural disasters on a community may be the consequence of the collapse of health facilities and healthcare systems, the disruption of surveillance and health programmes (immunization and vector control programmes), the limitation or destruction of farming activities (scarcity of food/food insecurity), or the interruption of ongoing treatments and use of unprescribed medications.¶ The risk factors for increased infectious diseases transmission and outbreaks are mainly associated with the after-effects of the disasters rather than to the primary disaster itself or to the corpses of those killed. These after-effects include displacement of populations (internally displaced persons and refugees), environmental changes and increased vector breeding sites. Unplanned and overcrowded shelters, poor water and sanitation conditions, poor nutritional status or insufficient personal hygiene are often the case. Consequently, there are low levels of immunity to vaccine-preventable diseases, or insufficient vaccination coverage and limited access to health care services.¶ Phases of outbreak and classification of infectious disease¶ Infectious disease transmission or outbreaks may be seen days, weeks or even months after the onset of the disaster. Three clinical phases of natural disasters summarize the chronological public health effects on injured people and survivors:¶ Phase (1), the impact phase (lasting up to to 4 days), is usually the period when victims are extricated and initial treatment of disaster-related injuries is provided.¶ Phase (2), the post-impact phase (4 days to 4 weeks), is the period when the first waves of infectious diseases (air-borne, food-borne, and/or water-borne infections) might emerge.¶ Phase (3), the recovery phase (after 4 weeks), is the period when symptoms of victims who have contracted infections with long incubation periods or those with latent-type infections may become clinically apparent. During this period, infectious diseases that are already endemic in the area, as well as newly imported ones among the affected community, may grow into an epidemic.¶ It is common to see the international community, NGOs, volunteers, experts and the media leaving a disaster-affected zone usually within three months, when in reality basic sanitation facilities and access to basic hygiene may still be unavailable or worsen due to the economic burden of the disasters.¶ Although it is not possible to predict with accuracy which diseases will occur following certain types of disasters, diseases can be distinguished as either water-borne, air-borne/droplet or vector-borne diseases, and contamination from wounded injuries.¶ Diarrhoeal diseases¶ The most documented and commonly occurring diseases are water-borne diseases (diarrhoeal diseases and Leptospirosis). Diarrhoeal diseases cause over 40 percent of the deaths in disaster and refugee camp settings. Epidemics among victims are commonly related to polluted water sources (faecal contamination), or contamination of water during transportation and storage. Outbreaks have also been related to shared water containers and cooking pots, scarcity of soap and contaminated food, as well as pre-existing poor sanitary infrastructures, water supply and sewerage systems.

#### New deadly disease outbreaks are inevitable

CDC Foundation 12 --- “How CDC Saves Lives By Controlling REAL Global Disease Outbreaks,” http://www.cdcfoundation.org/content/how-cdc-saves-lives-controlling-real-global-disease-outbreaks

Serious, deadly contagious disease outbreaks can and do happen. CDC investigates new contagious diseases—averaging one new contagion per year. These new contagious diseases can emerge **right here or only a plane-ride away** from here.¶ It’s not just new diseases that threaten the United States. Some diseases long thought controlled in the United States, like tuberculosis, can reemerge and be more deadly than ever.

#### Disease causes extinction---no burnout

**Torrey and Yolken 5** E. Fuller and Robert H, Directors Stanley Medical Research Institute, 2005, Beasts of the Earth: Animals, Humans and Disease, pp. 5-6

The outcome of this marriage, however, is not as clearly defined as it was once thought to be. For many years, it was believed that microbes and human slowly learn to live with each other as microbes evolve toward a benign coexistence with their hosts. Thus, the bacterium that causes syphilis was thought to be extremely virulent when it initially spread among humans in the sixteenth century, then to have slowly become less virulent over the following three centuries. This reassuring view of microbial history has recently been challenged by Paul Ewald and others, who have questioned whether microbes do necessarily evolve toward long-term accommodation with their hosts. Under certain circumstances, Ewald argues, “Natural selection may…favor the evolution of extreme harmfulness if the exploitation that damages the host [i.e. disease] enhances the ability of the harmful variant to compete with a more benign pathogen.” The outcome of such a “marriage” may thus be the murder of one spouse by the other. In eschatological terms, this view argues that a microbe such as HIV or SARS virus may be truly capable of eradicating the human race.

#### Effective naval power projection is vital to prevent great power war

James T. Conway 7, General, U.S. Marine Corps, Gary Roughead, Admiral, U.S. Navy, Thad W. Allen, Admiral, U.S. Coast Guard, “A Cooperative Strategy for 21st Century Seapower,” October, http://www.navy.mil/maritime/MaritimeStrategy.pdf

This strategy reaffirms the use of seapower to influence actions and activities at sea and ashore. The expeditionary character and versatility of maritime forces provide the U.S. the **asymmetric advantage** of enlarging or contracting its military footprint in areas where access is denied or limited. Permanent or prolonged basing of our military forces overseas often has unintended economic, social or political repercussions. The sea is a vast maneuver space, where the presence of maritime forces can be adjusted as conditions dictate to enable **flexible approaches** to escalation, **de-escalation** **and deterrence of conflicts**. The speed, flexibility, agility and scalability of maritime forces provide joint or combined force commanders a range of options for responding to crises. Additionally, integrated maritime operations, either within formal alliance structures (such as the North Atlantic Treaty Organization) or more informal arrangements (such as the Global Maritime Partnership initiative), send powerful messages to would-be aggressors that we will act with others to ensure collective security and prosperity. United States seapower will be globally postured to secure our homeland and citizens from direct attack and to advance our interests around the world. As our security and prosperity are inextricably linked with those of others, U.S. maritime forces will be deployed to protect and sustain the peaceful global system comprised of interdependent networks of trade, finance, information, law, people and governance. We will employ the global reach, persistent presence, and operational flexibility inherent in U.S. seapower to accomplish six key tasks, or strategic imperatives. Where tensions are high or where we wish to demonstrate to our friends and allies our commitment to security and stability, U.S. maritime forces will be characterized by regionally concentrated, forward-deployed task forces with the combat power to limit regional conflict, deter major power war, and should deterrence fail, win our Nation’s wars as part of a joint or combined campaign. In addition, persistent, mission-tailored maritime forces will be globally distributed in order to contribute to homeland defense-in-depth, foster and sustain cooperative relationships with an expanding set of international partners, and prevent or mitigate disruptions and crises. Credible combat power will be continuously postured in the Western Pacific and the Arabian Gulf/Indian Ocean to protect our vital interests, assure our friends and allies of our continuing commitment to regional security, and deter and dissuade potential adversaries and peer competitors. This combat power can be selectively and **rapidly repositioned to meet contingencies** that may arise elsewhere. These forces will be sized and postured to fulfill the following strategic imperatives: Limit regional conflict with forward deployed, decisive maritime power. Today regional conflict has ramifications far beyond the area of conflict. Humanitarian crises, violence spreading across borders, pandemics, and the interruption of vital resources are all possible when regional crises erupt. While this strategy advocates a wide dispersal of networked maritime forces, we cannot be everywhere, and we cannot act to mitigate all regional conflict. Where conflict threatens the global system and our national interests, maritime forces will be ready to respond alongside other elements of national and multi-national power, to give political leaders a range of options for deterrence, escalation and de-escalation. Maritime forces that are persistently present and combat-ready provide the Nation’s primary forcible entry option in an era of declining access, even as they provide the means for this Nation to respond quickly to other crises. Whether over the horizon or powerfully arrayed in plain sight, maritime forces can deter the ambitions of regional aggressors, assure friends and allies, gain and maintain access, and protect our citizens while working to sustain the global order. **Critical to this** notion **is the maintenance of a powerful fleet**—ships, aircraft, Marine forces, and shore-based fleet activities—capable of selectively controlling the seas, projecting power ashore, and protecting friendly forces and civilian populations from attack. Deter major power war. No other disruption is as potentially disastrous to **global stability** as **war among major powers**. Maintenance and extension of this Nation’s comparative seapower advantage is a **key component** of deterring major power war. While war with another great power strikes many as improbable, the near-certainty of its ruinous effects demands that it be actively deterred using all elements of national power. The expeditionary character of maritime forces—our lethality, global reach, speed, endurance, ability to overcome barriers to access, and operational agility—provide the joint commander with a range of deterrent options. We will pursue an approach to deterrence that includes a credible and scalable ability to retaliate against aggressors conventionally, unconventionally, and with nuclear forces. Win our Nation’s wars. In times of war, our ability to impose local sea control, overcome challenges to access, force entry, and project and sustain power ashore, makes our maritime forces an indispensable element of the joint or combined force. This expeditionary advantage must be maintained because it provides joint and combined force commanders with freedom of maneuver. Reinforced by a robust sealift capability that can concentrate and sustain forces, sea control and power projection enable extended campaigns ashore.

#### And U.S. interpretation of Geneva as allowing detainment at sea will be modeled by rogues, hamstringing future US operations to prevent Korean war

Commander Gregory P. Noone 4, JAGC, USNR, et al, assigned to Naval Reserve Civil Law Support Activity 104 which is the reserve unit that supports the Office of the Judge Advocate General, United States Navy, International and Operational Law Division, 2004, Prisoners of War in the 21st Century: Issues in Modern Warfare, Naval Law Review, http://www.dtic.mil/dtic/tr/fulltext/u2/a477125.pdf

One principal reason that the United States and other countries sign and ratify treaties obligating ¶ them to undertake specific responsibilities is to ensure reciprocal treatment. Notwithstanding, the ¶ Geneva Conventions of 1949 are a unilateral obligation and each nation undertakes to apply them ¶ irrespective of the conduct of another nation. 175 During OIF enemy combatants and/or insurgents, ¶ neither of whom follow the law of armed conflict, have taken harsh retaliatory actions to perceived or ¶ suspected breaches by Coalition forces in further violation of the law of armed conflict.176 If the United ¶ States interprets the Geneva Conventions to legally permit detention on vessels, we can expect that other countries will adopt this interpretation as consistent with the Geneva Conventions.177 Just as we look to ¶ examples such as the U.K. and Argentina agreement in the Falklands described above, other countries ¶ will look to see what the United States has done. ¶ What would happen if a country like North Korea applied this principle to a future conflict with the United States? It is not difficult to imagine a scenario in which a variety of smaller warships and ¶ fishing vessels along the North Korean coastline are being used to “detain” captured U.S. military personnel. Even if one were to assume that North Korean warships offered a humane environment for ¶ detention of PWs, there are still other concerns. For example, there is a potential risk that captured U.S. military could be tactically spread out among a large number of military or civilian ships, both to make ¶ their rescue more difficult and to serve as human shields to discourage us from sinking the ships.178 If ¶ U.S. forces did sink one or several vessels containing U.S. prisoners of war, there is a potential risk that public support for the operation could wane, therefore achieving a strategic gain for the enemy. Finally, ¶ it would be naive not to consider the harsh reality that some of the captured personnel could be placed in ¶ the bottom of old fishing vessels in extremely inhumane conditions to conceal their locations. Victims of ¶ human smuggling and trafficking interdicted at sea have often been found in the bottom of such vessels in ¶ intolerable and inhumane conditions without access to food, water, or proper sanitation.

#### Korean war goes nuclear---risk of miscalc is high

Steven Metz 13, Chairman of the Regional Strategy and Planning Department and Research Professor of National Security Affairs at the Strategic Studies Institute, 3/13/13, “Strategic Horizons: Thinking the Unthinkable on a Second Korean War,” http://www.worldpoliticsreview.com/articles/12786/strategic-horizons-thinking-the-unthinkable-on-a-second-korean-war

Today, North Korea is the most dangerous country on earth and the greatest threat to U.S. security. For years, the bizarre regime in Pyongyang has issued an unending stream of claims that a U.S. and South Korean invasion is imminent, while declaring that it will defeat this offensive just as -- according to official propaganda -- it overcame the unprovoked American attack in 1950. Often the press releases from the official North Korean news agency are absurdly funny, and American policymakers tend to ignore them as a result. Continuing to do so, though, could be dangerous as events and rhetoric turn even more ominous. ¶ In response to North Korea's Feb. 12 nuclear test, the U.N. Security Council recently tightened existing sanctions against Pyongyang. Even China, North Korea's long-standing benefactor and protector, went along. Convulsed by anger, Pyongyang then threatened a pre-emptive nuclear strike against the United States and South Korea, abrogated the 1953 armistice that ended the Korean War and cut off the North-South hotline installed in 1971 to help avoid an escalation of tensions between the two neighbors. A spokesman for the North Korean Foreign Ministry asserted that a second Korean War is unavoidable. He might be right; for the first time, an official statement from the North Korean government may prove true. ¶ No American leader wants another war in Korea. The problem is that the North Koreans make so many threatening and bizarre official statements and sustain such a high level of military readiness that American policymakers might fail to recognize the signs of impending attack. After all, every recent U.S. war began with miscalculation; American policymakers misunderstood the intent of their opponents, who in turn underestimated American determination. The conflict with North Korea could repeat this pattern. ¶ Since the regime of Kim Jong Un has continued its predecessors’ tradition of responding hysterically to every action and statement it doesn't like, it's hard to assess exactly what might push Pyongyang over the edge and cause it to lash out. It could be something that the United States considers modest and reasonable, or it could be some sort of internal power struggle within the North Korean regime invisible to the outside world. While we cannot know whether the recent round of threats from Pyongyang is serious or simply more of the same old lathering, it would be prudent to think the unthinkable and reason through what a war instigated by a fearful and delusional North Korean regime might mean for U.S. security. ¶ The second Korean War could begin with missile strikes against South Korean, Japanese or U.S. targets, or with a combination of missile strikes and a major conventional invasion of the South -- something North Korea has prepared for many decades. Early attacks might include nuclear weapons, but even if they didn't, the United States would probably move quickly to destroy any existing North Korean nuclear weapons and ballistic missiles. ¶ The war itself would be extremely costly and probably long. North Korea is the most militarized society on earth. Its armed forces are backward but huge. It's hard to tell whether the North Korean people, having been fed a steady diet of propaganda based on adulation of the Kim regime, would resist U.S. and South Korean forces that entered the North or be thankful for relief from their brutally parasitic rulers. As the conflict in Iraq showed, the United States and its allies should prepare for widespread, protracted resistance even while hoping it doesn't occur. Extended guerrilla operations and insurgency could potentially last for years following the defeat of North Korea's conventional military. North Korea would need massive relief, as would South Korea and Japan if Pyongyang used nuclear weapons. Stabilizing North Korea and developing an effective and peaceful regime would require a lengthy occupation, whether U.S.-dominated or with the United States as a major contributor. ¶ The second Korean War would force military mobilization in the United States. This would initially involve the military's existing reserve component, but it would probably ultimately require a major expansion of the U.S. military and hence a draft. The military's training infrastructure and the defense industrial base would have to grow. This would be a body blow to efforts to cut government spending in the United States and postpone serious deficit reduction for some time, even if Washington increased taxes to help fund the war. Moreover, a second Korean conflict would shock the global economy and potentially have destabilizing effects outside Northeast Asia. ¶ Eventually, though, the United States and its allies would defeat the North Korean military. At that point it would be impossible for the United States to simply re-establish the status quo ante bellum as it did after the first Korean War. The Kim regime is too unpredictable, desperate and dangerous to tolerate. Hence regime change and a permanent ending to the threat from North Korea would have to be America's strategic objective. ¶ China would pose the most pressing and serious challenge to such a transformation of North Korea. After all, Beijing's intervention saved North Korean dictator Kim Il Sung after he invaded South Korea in the 1950s, and Chinese assistance has kept the subsequent members of the Kim family dictatorship in power. Since the second Korean War would invariably begin like the first one -- with North Korean aggression -- hopefully China has matured enough as a great power to allow the world to remove its dangerous allies this time. If the war began with out-of-the-blue North Korean missile strikes, China could conceivably even contribute to a multinational operation to remove the Kim regime. ¶ Still, China would vehemently oppose a long-term U.S. military presence in North Korea or a unified Korea allied with the United States. One way around this might be a grand bargain leaving a unified but neutral Korea. However appealing this might be, Korea might hesitate to adopt neutrality as it sits just across the Yalu River from a China that tends to claim all territory that it controlled at any point in its history. ¶ If the aftermath of the second Korean War is not handled adroitly, the result could easily be heightened hostility between the United States and China, perhaps even a new cold war. After all, history shows that deep economic connections do not automatically prevent nations from hostility and war -- in 1914 Germany was heavily involved in the Russian economy and had extensive trade and financial ties with France and Great Britain. It is not inconceivable then, that after the second Korean War, U.S.-China relations would be antagonistic and hostile at the same time that the two continued mutual trade and investment. Stranger things have happened in statecraft.

#### Uncertain legal guidance causes ad-hoc sea-based detentions that cause naval overstretch and SOF mission failure

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Problem is, the way the Obama administration is drifting, the fleet is shaping up to be default jailers in the war on terrorism.¶ Last week, Vice Adm. William McRaven, the next head of the U.S. Special Operations Command, testified that ever since the Obama team effectively barred detainee transfers to Guantanamo Bay, terrorist suspects taken captive outside Afghanistan or Iraq would be briefly held aboard “a naval vessel.”¶ As it turned out, McRaven secretly already had Warsame detained in precisely that manner, according to Warsame’s indictment in federal court. Warsame, intercepted in the Gulf of Aden, had been floating out there for more than two months; Danger Room isn’t sure how much time he spent on the Boxer, whose crew did not return an e-mail seeking comment. (The Boxer‘s involvement was first asserted by Danger Room pal Raymond Pritchett, but we confirmed it independently.)¶ McRaven wasn’t exactly happy about it. He urged the Senate Armed Services Committee to keep some long-term terrorism detention facility open, Gitmo or no Gitmo.¶ It’s not hard to see why McRaven wouldn’t be pleased. It’s not just that most of the fleet isn’t equipped for the detention mission. It’s that the whole enterprise is an improvised, stopgap measure. Since special operations forces snatch missions are classified, they surely involve keeping most of a ship’s crew in the dark, all while diverting resources from its main mission. Then there’s the complexity of getting experienced interrogators flown out to see to pry information out of the detainee.¶ And hovering over everything is the legal ambiguity and the potential for a PR or human-rights disaster. Obama administration lawyers couldn’t tell reporters why detaining Warsame was legal. The Joint Special Operations Command is still smarting from its detainee abuse scandal at Iraq’s brutal Camp Nama, and there are reports it runs secret jails in Afghanistan, too. Uncertain legal authorities, inappropriate facilities and seat-of-the-pants planning for detentions is a recipe for something going very, very wrong.¶ There’s reason to suspect that Warsame isn’t the last detainee held on a ship. After a U.S. drone strike on Shebaab targets in Somalia on Friday, the country’s defense minister said that commandos “retrieve[d] the bodies of dead or wounded militants.” Obama officials deny it, but there could be other Warsames in Navy brigs.¶ It’s either ironic or tragic: Obama’s opposition to Guantanamo Bay has led to precisely the kind of ad hoc, legally murky detentions that created so many problems at Guantanamo. Now the Navy and special operations forces are effectively holding the bag.¶ Even on the large ships that have brig space for detainees, Christenson says, “extended” detentions — “a month or something” — are very rare. “They’ll transfer them to shore, get them in a big facility,” he says. “They don’t want to keep someone in a ship’s brig for a long time.” Unless Obama can reverse the drift of his detentions policy, they might have to.

### 1AC – Solvency

#### CONTENTION 3: SOLVENCY

#### Obama’s indefinite detention at sea violates international law and continues legal loopholes that wreck credibility

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The most important lesson to learn from the Obama Administration's handling of the Ahmed Warsame case is not to make easy decisions into hard decisions. The Obama Administration deserves praise for making the correct legal and policy decision to try Ahmed Warsame in a civilian court. However, the Administration also deserves criticism for initially detaining Warsame indefinitely and without charge. Ultimately, the Obama Administration made the correct decision, but Warsame's two-month "temporary, indefinite" detention aboard a U.S. naval vessel mars this decision. n14 Warsame's detention adds unnecessary legal challenges to his trial and undermines President Obama's commitment to ending extra-legal detention.¶ There are three key legal issues regarding the Warsame case. The first issue is whether the Obama Administration had the legal authority to detain Warsame. Obama Administration officials claim that international humanitarian law justified Warsame's detention, n15 but this claim is tenuous at best. Although the Obama Administration has not yet explicitly stated what legal authority allowed for Warsame's detention, any explanation will likely involve a strained interpretation of the law. U.S. officials captured Warsame in international waters and he was not on any recognized battlefield. U.S. officials might argue that they can detain Warsame because he is somehow covered by the Congressional authorization that allowed for military force against the perpetrators of 9/11, n16 but such a claim is not credible. Likewise, a claim that Warsame's [\*1556] alleged connection to al Shabaab or al Qaeda in the Arabian Peninsula somehow justifies his detention also lacks credibility, as the United States is not engaged in armed conflict with either organization and the Administration's claim that it may target or detain members of these organizations is dubious.¶ The fact that the Obama Administration held Warsame on a naval vessel, rather than in Guantanamo Bay or in a U.S. prison, illustrates the legal failure of the current national security policy regarding detainment. Warsame's detainment is an ad hoc solution with questionable legal authority. While correctly refusing to recognize Guantanamo Bay as a legal option, the Obama Administration merely created a very similar legal loophole that likely will not withstand future scrutiny. In addition, it is deeply troubling to learn that U.S. officials have used this tactic previously to hold detainees until the Department of Justice can build a case against the detained. n17¶ The Obama Administration is correct to close Guantanamo Bay and its decision to refuse to send new prisoners to that facility is laudable. n18 Guantanamo Bay remains a rallying point for extremists intending to harm the United States and a continued diplomatic obstacle. Moreover, military prosecutions at Guantanamo Bay have proven tremendously inefficient, while failing to demonstrate that they result in greater national security. Still, U.S. officials should have followed the law and simply arrested Warsame and charged him with a crime. U.S. officials clearly had enough information to arrest and charge Warsame. Further, Warsame's location in international waters provided U.S. officials the additional advantage of not needing to file an extradition request. It is unacceptable to detain individuals for an indefinite time in violation of U.S. and international law. Breaking the law to uphold the law is a defeatist strategy and an ineffective national security policy.¶ [\*1557] The second issue is interrogation. U.S. officials detained Warsame for more than two months, then, during a break from interrogation, invited an International Committee for the Red Cross representative to visit him before bringing in a new set of interrogators to begin a criminal investigation. Importantly, Warsame received a proper Miranda warning before the criminal investigation portion of his detainment began. While the Obama Administration deserves praise for making it clear that Warsame was now a criminal suspect with Miranda rights, the Administration also deserves criticism for making a simple criminal procedure unnecessarily difficult.¶ Warsame's interrogation will almost certainly present substantial challenges for federal prosecutors. It will be difficult to sort two months of inadmissible statements from later admissible statements. Warsame's lawyers have already indicated that they plan to challenge the admissibility of his statements due to the irregularities surrounding his detention and his Miranda warning. Again, these difficulties were easily avoidable, which makes the Administration's actions even more frustrating. In an interrogation during an armed conflict, the Geneva Conventions apply and interrogators may use techniques listed in the Army Field Manual and other compliant techniques. During a criminal investigation, Miranda warnings apply and criminal investigators must adhere to procedures that do not violate these rights. Sometimes it really is just that simple.¶ The Obama Administration's "public safety" delay in warning a suspect of his or her Miranda rights is very disappointing. As a New York Times editorial stated in July 2011:¶ Mr. Obama came to office vowing to stop these costly travesties of justice that so damaged America's international reputation. But he has steadily retreated, sometimes in the face of political opposition, sometimes on his own. Now he is drifting toward establishing his own system of extralegal detention and tainted questioning. n19

#### This sea-based internment directly violates Geneva

Ryan Goodman 13, co-editor-in-chief of Just Security and the Anne and Joel Ehrenkranz Professor of Law and Co-Chair of the Center for Human Rights and Global Justice at New York University School of Law, Sarah Knuckey, an international human rights lawyer at the Center for Human Rights and Global Justice (NYU School of Law), and a Special Advisor to the UN Special Rapporteur on extrajudicial executions, October 9, 2013, The Case of Abu Anas al-Libi: International Law Q & A, <http://justsecurity.org/2013/10/09/case-abu-anas-al-libi-international-law/>

Some media accounts of this issue have cited to Article 22 of the Third Geneva Convention, which states that POWs can be lawfully “interned only in premises located on land.” One of the most authoritative sources on the meaning of this provision–the ICRC Commentaries–explains that “boats, rafts or ‘pontoons’” are thus “absolutely forbidden” (note: one news report incorrectly discounts the importance of the ICRC Commentaries on this provision, describing them as “a kind of explanatory gloss”). Article 22, however, is likely inapplicable because it applies only to POWs–which al-Libi is presumably not, because he did not wear arms openly, abide by the laws of war, etc. The provision also applies only in international armed conflicts between states. Any US armed conflict with al-Qaeda is a non-international armed conflict.¶ That said, while Article 22 does not directly apply, there may be a broader prohibition (relevant in all kinds of armed conflicts) against holding suspected combatants on boats. The US Justice Department’s brief in In re Guantanamo Detainees explained that the rules of international armed conflict should help define detention authority in the non-international armed conflict with al-Qaeda, where the latter are less clear or less defined. That said, one has to know the reason for the legal prohibition on detention on naval vessels. If the rationale behind the rule involves assumptions about health and hygeine available on land versus ocean, then the rule is probably not applicable to al-Libi’s situation. If the rationale more generally concerns the ability to monitor conditions of confinement, it is directly applicable. The legal issue deserves further exploration.¶ Additional rules for non-international armed conflicts apply to al-Libi. According to the leading contemporary treatise on non-international armed conflict, a presumption exists against mobile detention facilities: “Fixed detention facilities are the preferred option.” Further, in an highly regarded analysis, the Legal Advisor to the ICRC explains that one of the most basic rules is that “any person interned/administratively detained must be registered and held in an officially recognized place of internment/administrative detention” (see also here). It is doubtful that the US naval vessel is an “officially recognized place of internment/administrative detention.” In an analogous case of US detention of a terror suspect on the high seas, an in-depth news report noted: “It’s not just that most of the fleet isn’t equipped for the detention mission. It’s that the whole enterprise is an improvised, stopgap measure.”

#### Absent the plan, perception of the U.S. cherry-picking laws in violation of Geneva will grow

Spencer Ackerman 13, national security editor for Guardian US. A former senior writer for Wired, he won the 2012 National Magazine Award for Digital Reporting, "Libyan al-Qaida suspect's detention-at-sea raises Geneva convention concerns", October 8, www.theguardian.com/world/2013/oct/08/us-detention-libya-al-liby-ship

Article 22 of the third Geneva Convention explicitly stipulates that “prisoners of war may be interned only in premises located on land.” Chesney said that while article 22 does not apply to Liby – as a member of al-Qaida, he is not treated as a prisoner of war, and the third Geneva convention applies only to state-on-state conflicts – it could be argued that the spirit of the article applies to his case as a matter of custom. The US Supreme Court has accepted that Geneva’s common article 3 applies to al-Qaida, as common article 3 is about unconventional conflicts. ¶ John Bellinger, the top State Department lawyer during the Bush administration, said that Liby is “not entitled” to the article 22 protection because “al-Qaida is not a state party to the Geneva conventions”. ¶ “But this does open the Obama administration to the same charges by critics that the US is cherry-picking among the laws of war,” said Bellinger, now an adjunct senior fellow for international law at the Council on Foreign Relations. “Because it has not wanted to be tarred with the same brush as the Bush administration, the Obama administration has never explained whether it believes that all of the provisions of the Geneva conventions apply to al-Qaida or whether it is applying them."

#### Only limiting detention to land-based internment solves---it avoids current conflation between detention and internment

Commander Gregory P. Noone 4, JAGC, USNR, et al, assigned to Naval Reserve Civil Law Support Activity 104 which is the reserve unit that supports the Office of the Judge Advocate General, United States Navy, International and Operational Law Division, 2004, Prisoners of War in the 21st Century: Issues in Modern Warfare, Naval Law Review, http://www.dtic.mil/dtic/tr/fulltext/u2/a477125.pdf

If the distinction between “detention” and “internment” is to have any meaning, detention on board vessels must be truly temporary and limited to the minimum period necessary to evacuate such persons from the combat zone, to provide necessary medical care or treatment of wounds if no other such facility is reasonably available on land, or to avoid significant harm such persons would face if detained on land.182

#### The plan brings U.S. practice in line with Geneva

John Bellinger 13, Partner in the International and national security law practices at Arnold & Porter LLP in Washington, DC. He is also Adjunct Senior Fellow in International and National Security Law at the Council on Foreign Relations, "Do the Geneva Conventions Apply to the Detention of al-Libi?", October 7, www.lawfareblog.com/2013/10/do-the-geneva-conventions-apply-to-the-detention-of-al-libi/

The New York Times is reporting that the U.S. Navy is holding and questioning captured al-Qaida member Abu Anas al-Libi on a Navy ship before transferring him to federal law enforcement officials for prosecution in the United States. Assuming that al-Libi is currently being held as a combatant under the laws of war, this is similar to the detention/interrogation process the Obama Administration used for Ahmed Abdulkadir Warsame in 2011. I agree that this combined law-of-war/criminal law enforcement model has some advantages (and minimizes the disadvantages of either approach used alone), but it does raise questions regarding what international legal rules the Administration has applied to Warsame and al-Libi during the period of their detention and, in particular, whether the Administration believes the Geneva Conventions apply.¶ As I have previously noted with respect to Warsame, because Article 22 of the Third Geneva Convention states that prisoners of war “may be interned only in premises located on land,” Obama Administration lawyers must have concluded that the Geneva Conventions do not apply to Warsame and al-Libi, or that they are not POWs, or that they are not being interned.¶ The Bush Administration, of course, was much criticized (including by officials now in the Obama Administration) for holding al-Qaida detainees under the laws of war (rather than as criminal suspects) and for not applying the Geneva Conventions to them. The Bush Administration was accused of “cherry-picking” among the laws of war — relying on the laws of war for detention authority but not applying the Geneva Conventions. But, as I have explained previously, despite affirming its commitment to the Geneva Conventions, the Obama Administration has not applied the Conventions as a legal framework differently than its predecessor and, in particular, has not treated al-Qaida detainees as POWs under the Third Convention or as Protected Persons under the Fourth Convention.

#### Statute’s vital to international legitimacy and preventing future vacillation in policy

Benjamin Wittes 9, senior fellow and research director in public law at the Brookings Institution, Stuart Taylor, an American journalist, graduated from Princeton University and Harvard Law School, “Legislating the War on Terror: An Agenda for Reform”, November 3, Book, p. 329-330

While President Obama’s policy makes a clean break with the Bush record, it actually does not effectively answer the question of how best to handle this group. Indeed, the new policy seems likely to fail on both a substantive and a procedural level. First, it goes too far by banning all coercion all the time. Second, the rule is unstable because it can so easily be changed at the whim of the president, whether Obama or, perhaps, a successor more like Bush. An administration down the road that wanted to resume waterboarding could rescind the current order and adopt legal positions like those of the prior administration. Unless the Obama administration and Congress hammer out rules that provide interrogators with clear guidance about what is and is not allowed and write those rules into statute, the United States risks vacillating under the vagaries of current law between overly permissive and overly restrictive guidance. The general goals of new legislation should be threefold: —To make it a crime beyond cavil to use interrogation methods considered by reasonable people to be torture. The torture statute already does that to some degree, but the fact that it arguably permitted techniques as severe as waterboarding suggests that it may require some tightening. The key here is that the statute should cover all techniques the use of which ought to prompt criminal prosecution. —To subject CIA interrogators in almost all cases to rules that, without relaxing current law’s ban on cruel, inhuman, and degrading treatment, permit relatively mild forms of coercion that are properly off limits to military interrogators. —To allow the president, subject to strict safeguards, to authorize use of harsher methods short of torture (as defined in the revised criminal statute) in true emergencies or on extraordinarily high-value captives such as KSM. Only Congress can provide the democratic legitimacy and the fine-tuning of criminal laws that can deliver such a regime. Only Congress can, for example, pass a new law making it clear that waterboarding— or any other technique of comparable severity— will henceforth be a federal crime. Only Congress can offer clear assurances to operatives in the field that there exists a safe harbor against prosecution for conduct ordered by higher-ups in a crisis in the genuine belief that an attack may be around the corner. Only Congress, in other words, can create a regime that plausibly turns away from the past without giving up what the United States will need in the future.

### AT: Circumvention

#### Plan’s statute prevents circumvention

David J. Barron 8, Professor of Law at Harvard Law School and Martin S. Lederman, Visiting Professor of Law at the Georgetown University Law Center, “The Commander in Chief at the Lowest Ebb -- A Constitutional History”, Harvard Law Review, February, 121 Harv. L. Rev. 941, Lexis

In addition to offering important guidance concerning the congressional role, our historical review also illuminates the practices of the President in creating the constitutional law of war powers at the "lowest ebb." Given the apparent advantages to the Executive of possessing preclusive powers in this area, it is tempting to think that Commanders in Chief would always have claimed a unilateral and unregulable authority to determine the conduct of military operations. And yet, as we show, for most of our history, the presidential **practice was otherwise**. Several of our most esteemed Presidents - Washington, Lincoln, and both Roosevelts, among others - never invoked the sort of preclusive claims of authority that some modern Presidents appear to embrace without pause. In fact, no Chief Executive did so in any clear way until the onset of the Korean War, even when they confronted problematic restrictions, some of which could not be fully interpreted away and some of which even purported to regulate troop deployments and the actions of troops already deployed. Even since claims of preclusive power emerged in full, the practice within the executive branch has waxed and waned. No consensus among modern Presidents has crystallized. Indeed, rather than denying the authority of Congress to act in this area, some **modern Presidents**, like their predecessors, have **acknowledged** the **constitutionality of legislative regulation**. They have therefore concentrated their efforts on making effective use of other presidential authorities and institutional [\*949] advantages to shape military matters to their preferred design. n11 In sum, there has been much less executive assertion of an inviolate power over the conduct of military campaigns than one might think. And, perhaps most importantly, until recently there has been almost no actual defiance of statutory limitations predicated on such a constitutional theory. This repeated, though not unbroken, deferential executive branch stance is not, we think, best understood as evidence of the timidity of prior Commanders in Chief. Nor do we think it is the accidental result of political conditions that just happened to make it expedient for all of these Executives to refrain from lodging such a constitutional objection. This consistent pattern of executive behavior is more accurately viewed as reflecting deeply rooted norms and understandings of how the Constitution structures conflict between the branches over war. In particular, this well-developed executive branch practice appears to be premised on the assumption that the constitutional plan requires the nation's chief commander **to guard his supervisory powers** over the military chain of command **jealously**, to be willing to act in times of exigency if Congress is not available for consultation, and to use the very powerful weapon of the veto to forestall unacceptable limits proposed in the midst of military conflict - but that otherwise, the Constitution compels the Commander in Chief to comply with legislative restrictions. In this way, the founding legal charter itself exhorts the President to justify controversial military judgments to a sympathetic but sometimes skeptical or demanding legislature and nation, not only for the sake of liberty, but also for effective and prudent conduct of military operations. Justice Jackson's famous instruction that "with all its defects, delays and inconveniences, men have discovered no technique for long preserving free government except that the Executive be under the law, and that the law be made by parliamentary deliberations" n12 continues to have a strong pull on the constitutional imagination. n13 What emerges from our analysis is how much pull it seemed to [\*950] have on the executive branch itself for most of our history of war powers development.

### 1AC – Plan

#### The United States Federal Government should statutorily limit the President’s war powers authority to detain indefinitely to exclusively land-based internments.

# 2AC

## Case

### AT: Navy Strong

#### Naval power declining---overstretch

Mahnken 12 Tom, visiting scholar at the Philip Merrill Center for Strategic Studies at The Johns Hopkins University's School of Advanced International Studies, Foreign Policy, “Avoiding sea blindness: The decline of American naval power”, 2012, http://shadow.foreignpolicy.com/posts/2012/09/13/avoiding\_sea\_blindness

It is at times like this that the erosion of American sea power is most apparent. Today, the U.S. Navy is the smallest it has been since 1916 and is stretched thin beyond prudence and good operational sense. We should all hope that the United States will not need to evacuate American citizens or use force to defend them, for if we do, we may very well regret the neglect of sea power.

### 2AC T – Restriction (KU)

#### We meet: “Restrictions” are on time, place, and manner, includes the aff

Jules Lobel 8, professor of law at the University of Pittsburgh, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War,” Ohio State Law Journal, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/69.3.lobel\_.pdf

Throughout American history, Congress has placed restrictions on the President’s power as Commander in Chief to conduct warfare. On numerous occasions, **Congress has authorized the President to conduct warfare but placed significant restrictions on the time**, **place and manner of warfare**. Congress has regulated the tactics the President could employ, the armed forces he could deploy, the geographical area in which those forces could be utilized, and the time period and specific purposes for which the President was authorized to use force. Its regulations have both swept broadly and set forth detailed instructions and procedures for the President to follow. This historical practice is consistent with the Constitution’s text and Framers’ intent, which made clear that the President was not to have the broad powers of the British King, but was subject to the control and oversight of Congress in the conduct of warfare.

#### C/I --- Restriction is limitation, NOT prohibition

CAC 12 COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, COUNTY OF LOS ANGELES, Plaintiff and Respondent, v. ALTERNATIVE MEDICINAL CANNABIS COLLECTIVE et al., Defendants and Appellants, DIVISION ONE, 207 Cal. App. 4th 601; 143 Cal. Rptr. 3d 716; 2012 Cal. App. LEXIS 772

We disagree with County that in using the phrases “further restrict the location or establishment” and “regulate the location or establishment” in [\*615] section 11362.768, subdivisions (f) and (g), the Legislature intended to authorize local governments to ban all medical marijuana dispensaries that are otherwise “authorized by law to possess, cultivate, or distribute medical marijuana” (§ 11362.768, subd. (e) [stating scope of section's application]); the Legislature did not use the words “ban” or “prohibit.” Yet County cites dictionary definitions of “regulate” (to govern or direct according to rule or law); “regulation” (controlling by rule or restriction; a rule or order that has legal force); “restriction” (a limitation or qualification, including on the use of property); “establishment” (the act of establishing or state or condition of being established); “ban” (to prohibit); and “prohibit” (to forbid by law; to prevent or hinder) to attempt to support its interpretation. County then concludes that “the ordinary meaning [\*\*\*23] of the terms, ‘restriction,’ ‘regulate,’ and ‘regulation’ are consistent with a ban or prohibition against the opening or starting up or continued operation of [a medical marijuana dispensary] storefront business.” We disagree.¶CA(9)(9) The ordinary meanings of “restrict” and “regulate” suggest a degree of control or restriction falling short of “banning,” “prohibiting,” “forbidding,” or “preventing.” Had the Legislature intended to include an outright ban or prohibition among the local regulatory powers authorized in section 11362.768, subdivisions (f) and (g), it would have said so. Attributing the usual and ordinary meanings to the words used in section 11362.768, subdivisions (f) and (g), construing the words in context, attempting to harmonize subdivisions (f) and (g) with section 11362.775 and with the purpose of California's medical marijuana [\*\*727] statutory program, and bearing in mind the intent of the electorate and the Legislature in enacting the CUA and the MMP, we conclude that HN21Go to this Headnote in the case.the phrases “further restrict the location or establishment” and “regulate the location or establishment” in section 11362.768, subdivisions (f) and (g) do not authorize a per se ban at the local level. The Legislature [\*\*\*24] decided in section 11362.775 to insulate medical marijuana collectives and cooperatives from nuisance prosecution “solely on the basis” that they engage in a dispensary function. To interpret the phrases “further restrict the location or establishment” and “regulate the location or establishment” to mean that local governments may impose a blanket nuisance prohibition against dispensaries would frustrate both the Legislature's intent to “[e]nhance the access of patients and caregivers to medical marijuana through collective, cooperative cultivation projects” and “[p]romote uniform and consistent application of the [CUA] among the counties within the state” and the electorate's intent to “ensure that seriously ill Californians have the right to obtain and use marijuana for medical purposes” and “encourage the federal and state governments to implement a plan to provide for the safe and affordable distribution of marijuana to all patients in medical need of marijuana.”

### 2AC T – In the Area

#### “In the area of” just means approximately – their ev is about LOST

CDO No Date, Cambridge Dictionaries Online, The most popular online dictionary and thesaurus for learners of English, "in the area of", dictionary.cambridge.org/us/dictionary/british/in-the-area-of

in the area of¶ Definition¶ › approximately:¶ The repair work will cost in the area of £200

#### “In” means within a set of limits

Dictionary.Com – No specific Date Included

Updated in 2013 but no specific date given, http://dictionary.reference.com/browse/in

In [in] 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.¶ 6.¶ (used to indicate motion or direction from outside to a point within) into: Let's go in the house.¶ 7.¶ (used to indicate transition from one state to another): to break in half.¶ 8.¶ (used to indicate object or purpose): speaking in honor of the event.

#### Their definition of area is geographical – in that context the word “area” refer to a number of places

DOE 96 - U.S. Department of Education, Office of Educational Research and Improvement, Helping Your Child Learn Geography, October 1996, Regions: How They Form and Change

A region is an area that includes a number of places--all of which have something in common. Geographers categorize regions in two basic ways: physical and cultural. Physical regions are defined by landform (continents and mountain ranges), climate, soil, and natural vegetation. Cultural regions are distinguished by such traits as language, politics, religion, economics, and industry.

### 2AC Navy CP

#### Despite qualitative and quantitative superiority over a single enemy, mission overstretch is preventing the Navy from meeting the requirements of combatant commanders

J. Randy Forbes 14, Chairman of the House Armed Services Seapower and Projection Forces subcommittee, currently co-leading a bipartisan Asia-Pacific Security Series for the House Armed Services Committee, 3/14, Revitalize American Sea Power, Proceedings Magazine, <http://www.usni.org/magazines/proceedings/2014-03/revitalize-american-sea-power>

While total Fleet size is an important metric in gauging the Navy’s combat capabilities, its ability to meet the needs of our combatant commanders is another essential barometer. The percentage of asset requests from combatant commanders fulfilled by the Navy has dropped from 90 percent in FY 07 to a projected 42 percent in FY 14. 12 While the service’s ability to meet requirements has decreased, the demands of our commanders in the field have continued to rise in response to a dynamic global threat environment.¶ Critics of investments in a robust American Navy–Marine Corps team have and will point to the qualitative advantages our Navy currently enjoys in comparison with potential challengers as justification for avoiding these investments. The danger of this thinking is that it erodes the margin between just accomplishing objectives and achieving them with a minimum of risk and cost to our serving personnel. In some capabilities, these margins are already perilously thin. If the Navy’s only goal was to defend Norfolk and San Diego, the Fleet would be sufficiently resourced as currently constituted. Yet in a world requiring continuous American presence from the Pacific to the Persian Gulf and nearly everywhere in between, our planned course will fail the nation.

### ICJ CP

#### Only Congress clears up murky legal status of boat detention policy --- key to naval effectiveness

MICHAEL B. MUKASEY 11, FORMER ATTORNEY GENERAL, REP. HOWARD P. "BUCK" MCKEON HOLDS A HEARING ON THE CURRENT STATUS OF LEGAL AUTHORITIES, DETENTION, AND PROSECUTION IN COMBATING TERRORISM, July 26, 2011, CQ Transcriptions, Lexis

MUKASEY: Chairman McKeon, Ranking Member Smith, members of the committee, I want to thank you for the opportunity to appear at this hearing, and particularly in the company of the people who are sitting here who are well informed and well able to testify on this subject, which is one that's literally of vital interest to this country, how we can go about defending ourselves against the threat of Islamist terror, which is the greatest existential threat to this country since the Civil War.¶ The authorities available to us to meet the terrorist threat are now controlled by what turns out to be a patchwork of statutes, policy improvisations, and court rulings. The principle statute, the Authorization of the Use of Military Force is, as the chairman pointed out, 10 years old and was passed in the immediate aftermath of the attacks of September 11, 2001.¶ Although two administrations have relied on it for authority to detain terrorists the statute does not even mention the word detention, let alone set standards for who to detain, under what circumstances, and where. We need a statute that helps organize and rationalize the process, like the one that you've passed, affirming that we are, in fact, in a global war with shadowy adversaries who do not follow the rule of law.¶ Our troops need clear authority to capture and hold dangerous people and to obtain from them, when possible, valuable intelligence about others of their kind who may be out there.¶ I think three recent events dramatize the need for the statute that you have passed. One is the testimony that was alluded to by the chairman of Vice Admiral William McRaven, who made it clear in testimony to a Senate committee that there is in place no coherent policy with respect to terrorists encountered abroad, that we are faced with a choice between killing them, holding them onboard ships for a limited time to obtain intelligence if possible, and then either sending them to another country that will take them, bringing them to the United States for trial in a civilian court, or freeing them.

#### Certainty’s key to solve --- CP isn’t

Morton Rosenberg 9, fellow at the Constitution Project, "When Congress Comes Calling: A Primer on the Principles, Practices, and Pragmatics of Legislative Inquiry," http://www.constitutionproject.org/wp-content/uploads/2012/09/175.pdf

D. How to Conduct Effective Oversight ¶ How is effective oversight accomplished? This handbook is designed to describe the tools of oversight and the applicable legal doctrines. But, first, it is important to set forth a few broad principles: ¶ Oversight Should Be a Leadership Priority: The leadership of the House and Senate must send the message to committee chairs that oversight, and in particular operational oversight, is to be a priority, and that oversight decisions, strategies, and enforcement will be fully supported, no matter who is in the White House. Even— or especially—when the president is of the same party as the one in control of Congress, it is critical to our system of checks and balances that Congress conduct effective oversight. Every standing committee should be encouraged to establish a subcommittee on investigations. Committee chairs should take care in selecting competent, dedicated, and experienced staff who will be familiar with the rules and the oversight powers available to Congress.

#### ICJ is super slow---fiat doesn’t solve

Julian Ku 6, 10-29-2006, “Fixing the ICJ: More Law Clerks is Not the Answer,” Opinio Juris, http://opiniojuris.org/2006/10/29/fixing-the-icj-more-law-clerks-is-not-the-answer/

But in recent years, the so-called active period of the ICJ, the ICJ has pretty much averaged three judgments a year, even without unusually difficult cases like the Bosnia/Serbia case. Let’s face it. The ICJ moves very, very slowly and it can’t all be explained by the lack of law clerks. The ICJ currently has twelve cases on its docket. A number of these cases have been sitting on that docket for years without any action or movement. For instance, the next set of ICJ hearings (Guinea/Congo) will be held about three years after the last written submission (July 2003) and will only discuss preliminary issues. The hearing after that (Nicaragua/Honduras) will be held nearly four years after the parties made their last written submissions (13 August 2003) (see here for the press release). So let’s get this straight. Each ICJ member-judge, who averages by the way about $315,000 in salary per year according to the p. 74 of the ICJ Annual Report plus about $44,000 a year in travel expenses, participates in three hearings a year and participates in the drafting of three judgments per year. This is an average of $100,000 per judge per judgment, or $50,000 per judge per judgment or hearing. I know it is expensive to live in the Hague these days, but unless I am missing something, this is a pretty sweet deal for ICJ members. (Just as a point of comparison, U.S. Supreme Court judges, who decide about 90 cases a year, are paid about $208,100 a year). A number of the ICJ members, like President Higgins or Judge Bruno Simma, are former academics who have cranked out dozens of articles and books much more sophisticated and complex than any ICJ judgment. I have little doubt that Judge Simma could personally draft an ICJ judgment in less than a month. I just can’t believe he and the other ICJ members need more research assistants. More likely, there is something deeply and fundamentally SLOW about the ICJ’s internal deliberative processes. As someone who believes international dispute resolution can serve a useful and important function, this apparent utter lack of urgency among the ICJ’s judges is disappointing. The ICJ may be the “principal judicial organ” of the United Nations, but its continuing lack of efficiency keeps it from doing much to live up to that role.

#### ICJ will refuse to rule on the plan --- CP can’t fiat out of it --- otherwise perm: have the ICJ rule the US should do the plan

**LS 10**, Legal Sutra, “Advisory Jurisdiction of the International Court of Justice The WHO Case: Implications for Specialised Agencies”, 11-3, http://legalsutra.org/706/advisory-jurisdiction-of-the-international-court-of-justice-the-who-case-implications-for-specialised-agencies/

While the ability of the WHO to request an advisory opinion is unquestionable, it is not absolute with respect to the kinds of questions it may pose.[17] Furthermore, it must also be noted that **the ICJ**, which heard its first dispute in 1947, **retains the discretion to decide whether it will give an advisory opinion**.[18]¶ There are several factors that the ICJ considers while deciding to give an advisory opinion. First, it is necessary to consider the circumstances under which the ICJ will refuse to give an advisory opinion. The **relevant grounds for refusal are: "the 'political' nature of the question posed,... the 'abstract' nature of the question,... [and} the absence of consent on the part of a state immediately concerned."[**lQ)¶ **The ICJ is seldom asked for advisory opinions**[20] and has seldom refused to give an advisory opinion. However, **the Permanent i**nternational **C**ourt of **J**ustice set the precedent for refusing to give an advisory opinion. In the case of Eastern Carelia, **the PCIJ refused to give an advisory opinion due to "non membership in the League of one of the disputants and that disputant's failure to agree to, or be represented in, the proceedings of the Court**."[21]

**Even if the ICJ rules, it won’t be a forceful or detailed ruling --- can’t cause the plan or the net benefit**

David **Kretzmer 5**, Bruce W. Wayne Professor of International Law at the Hebrew University, “AGORA: ICJ ADVISORY OPINION ON CONSTRUCTION OF A WALL IN THE OCCUPIED PALESTINIAN TERRITORY: THE ADVISORY OPINION: THE LIGHT TREATMENT OF INTERNATIONAL HUMANITARIAN LAW”, 99 A.J.I.L. 88, January, lexis

Ever since the occupation of the West Bank and Gaza began in 1967, the Supreme Court of Israel has entertained petitions challenging actions of the Israeli authorities in those territories. The Court has delivered dozens of judgments in which it addressed questions of international humanitarian law in a situation of belligerent occupation. 1 For a long time the Supreme Court was the sole judicial actor in this sphere. While its judgments were subjected to scrutiny and criticism by academics, 2 no other judicial organs, domestic or international, ruled on the difficult legal issues discussed by the Court. **The request for an advisory opinion provided the** International Court of Justice (**ICJ) with a unique** opportunity to address and clarify some of the issues **that had previously remained in the exclusive domain of the Supreme Court of Israel. Unfortunately, the Court did** not take full advantage of this opportunity. As Judge Rosalyn Higgins noted in her separate opinion, **the Court refrained from engaging in a detailed analysis of the law, thereby failing to follow "the tradition of using advisory opinions as an opportunity to elaborate and develop international law**." 3 **The opinion is especially weak on questions of** international humanitarian law (**IHL), which makes it** extremely difficult to know what the Court actually decided **on these questions**. 4

#### ICJ future overreach causes US backlash --- CP doesn’t set a precedent --- turns the net benefit

Andreas L. **Paulus 4**, assistant professor at the Institute for Public. International Law at the Ludwig-Maximilians-Universit, “From Neglect to Defiance? The United States and International Adjudication”, EJK (2004). Vol. 1 5 No. 4. 783-812

Thus, in spite of a later ruling in a maritime delimitation case, which was quite favourable to the US,25 US patience wore thin when Nicaragua sued the US because of its support for the Contras and the mining of Nicaraguan ports. The **Reagan administration was, like the current one.** not willing to allow international institutions such as the IC] to **intervene in the pursuit of US policies.** **The bad conscience of the US** Government **was visible when it** prepared an exit strategy early on, **attempting, without success, to modify its acceptance of the optional clause ad hoc by excluding cases arising in the Central American context**.2'' **After the Court had assumed jurisdiction of the case**, arguing, inter alia, that the Vandenberg reservation barred the application of the UN Charter, but not the basically identical customary international law on the matter.2' **the US was dismayed by what it regarded as an unequivocal example of judicial overreach, and withdrew from the system** of the optional clause altogether**. It** also disregarded the judgment **itself** **and vetoed measures of implementation by the Security Council** under Article 94. para. 2 of the Charter.2s **The reaction of US international lawyers** to the Nicaragua case **was** decidedly mixed — with **criticism** of the Reagan administration, but also **of the Court for its broad assumption of jurisdiction**.24¶ **The differences in the arguments put forward by the US in the Hostages and the Nicaragua cases are striking. In the former, the US adopted a** broad view of the role of the **Court**; **in the latter, the US** tried to limit the Court's room for manoeuvre **by excluding 'political questions' from its purview**. According to this argument, the Charter exclusively reserves intervention in questions of war and peace for the political organs of the United Nations.50 in particular the Security Council — a Council, of course, where the US can block any decision on non-procedural matters by the exercise of its veto power under Article 27 para. 3 of the Charter. Echoing the "political questions' doctrine in domestic constitutional litigation.31 the judicial character of the Court is said to require a similar approach.12 This line of argument amounts to nothing less than a claim of unfettered political discretion. Maybe there is a law on the use of force, but the Security Council is not bound by it — the criteria of the Charter giving the Council broad political latitude independent of the legality vel non of the threat to peace and security in question. Slates have the inherent right to self-defence, but if the Security Council does not weigh in — and the veto powers may prevent it from doing so — the use of self-defence will remain unchecked.5' Recently, in the Oil Platforms litigation, the US argued that the security exception in the Treaty on Friendship. Commerce and Navigation with Iran, as well as the right to self-defence in general, should be understood as giving maximum discretion to the state parties.14 In its judgment, the Court rejected this approach and decided that the US had failed to show that its measures were necessary and proportionate in the sense of the security exception.5' Again, **the US demonstrated that it purports to** exclude measures regarding international **peace and** security from international judicial scrutiny.**¶** Similarly, **the U**nited **S**tates **has argued that the Court should not follow the requests by the UN** General Assembly to **render advisory opinions on the Legality of the Threat or Use of Nuclear Weapons and**. recently, **on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory**.26 In the first instance, however, the United States added substantive remarks in case the Court would opine otherwise, and also appeared before the Court: in the latter case, the United States limited itself to a Written Statement extensively arguing that the Court should decline to deliver an opinion. **After the most recent opinion** on the barrier in the occupied Palestinian territories **was delivered, the executive branch alleged a political (ab)use of the Court, and the House of Representatives adopted a resolution to the same effect**.5' In spite of the moderate tone of the official criticism of the Wall opinion, **it is to be feared that the ICJ Opinion has further** alienated a substantial part of the US Government and public from the Court.

#### ICJ Judges rule in accordance with their own countries’ interests

Erica Posner, Professor of law at U-Chicago and Miguel de Figueiredo, PhD Candidate at Berkeley, 2005 Journal of Legal Studies 35:2 June <http://www.journals.uchicago.edu.ezp1.harvard.edu/JLS/journal/issues/v34n2/340206/340206.web.pdf>

This paper examines data on the voting patterns of ICJ judges. We test the claim of the critics that the judges **vote the interest of the state of which they are a national** (their “home state”) rather than enforce international law in a disinterested way. The null hypothesis then is that judges are unbiased. A judge votes in an unbiased way if he or she is influenced only by the relevant legal considerations—such as the proper interpretation of a treaty—and not by legally irrelevant considerations such as whether one party has a military alliance with the judge’s state. The ideal way to determine if a judge is unbiased is just to figure out the proper legal outcome of a dispute and then see if his or her vote matches that outcome, taking into account legitimate differences in the legal cultures in which judges are educated. The problem with this ap- proach, however, is that the proper legal outcome is rarely obvious and, further, judges may make mistakes and vote the wrong way even though they are unbiased. To avoid this problem, we can look at voting patterns alone and see if they are related to legally irrelevant factors. The null hypothesis implies that an unbiased judge from state X is no more likely to vote for state X than is an unbiased judge from state Y. The unbiased judge from state X is also no more likely to vote for state Z, where Z is an ally of X, than an unbiased judge from state Y, where Z is an enemy of Y. We are thus not assuming that unbiased judges always vote the same way—as there can be legitimate, legally relevant grounds for disagreeing on the outcome of a dispute—but only that their disagreements are random (or correlated with relevant legal factors) and not correlated with political factors. The simplest way to test this claim is to examine whether judges vote in favor of their home states when that state appears as a party. Previous studies have found some support for this claim but have also disputed the significance of this finding.4 We use more sophisticated empirical tests, as well as more data, to show that, in fact, judges are significantly biased in favor of their home states when that state appears as a party. Whereas judges vote in favor of a party about 50 percent of the time when they have no relationship with it, that figure rises to 85–90 percent when the party is the judge’s home state. This finding has limited importance, however, because it does not tell us anything about the voting behavior of judges when their home state is not a party. It is possible that only the judges whose home states are parties are biased, in which case their votes cancel out, leaving 13 or so other judges to resolve the case impartially. We hypothesize that even when a judge’s home state is not a party, his or her home state may have **an interest in one party prevailing**, and that the judge’s vote will **reflect his or her state’s interest.** Previous studies have found no evidence for this hypothesis. The most recent such study concluded, “[T]he record does not reveal significant [voting] alignments, either on a regional, po- litical, or economic basis. There is a high degree of consensus among the judges on most decisions. The most that can be discerned is that some judges vote more frequently together during certain periods than do others, and that in rare instances, notably with the Soviet and Syrian judges, they have always voted the same way. But there have not been persistent voting alignments which have significantly affected the deci- sions of the Court” (Weiss 1987, p. 134). However, this study and the earlier studies all have flaws, chiefly, the failure to rely on statistical techniques that control for relevant factors. THEY CONCLUDE… The bottom line on the regressions is clear. Judges vote in favor of their own countries and in favor of countries that match the economic, political, and (somewhat more weakly) cultural attributes of their own countries. As for regional and military groupings—whether economic or strategic—we are hampered by multicollinearity and lack of variation.3

#### Britain supports naval detention and thinks it's legal

Peter Margulies 13, professor at Roger Williams University School of Law, 10/10/13, <http://www.lawfareblog.com/2013/10/al-libi-and-detention-at-sea/>

**Flexibility in state practice** was evident during the Falklands War between the United Kingdom and Argentina.  During that conflict, Britain detained thousands of Argentine POWs safely aboard navy vessels, because tent shelters the British had sent had been lost in a naval battle.  Winter was imminent, and the British believed that detention on naval vessels was safer than detention on land in improvised conditions.  Argentina agreed.  Moreover, the ICRC’s own guidance indicates that a rule of reason applies to Article 22 – **modification of the internment on land rule is appropriate**, the ICRC has suggested, when **detention on navy vessels is safer** and offers the “best available accommodation.”

Perm do the plan

### ICJ NB

#### SQ solves or US disobeying ICJ rulings is inevitable

John B**. Bellinger** III **11**, partner at Arnold & Porter LLP and an adjunct senior fellow in international and national security law at the Council on Foreign Relations & served as legal adviser for the State Department from 2005 to 2009., “An international treaty Congress should support”, 3-4, http://www.washingtonpost.com/wp-dyn/content/article/2011/03/03/AR2011030305658.html

About two years ago, while many Americans were watching President Obama's inauguration and my former colleagues in the Bush administration were cleaning out their offices, I was flying home from The Hague, where the International Court of Justice had just ruled against the United States in a case I had argued. The 15-judge court said that the United States had violated international law by allowing Texas to execute Jose Medellin, a Mexican national who had been convicted of the grisly rape and murder of two young girls, but who had not been given access to the Mexican Embassy at the time of his arrest. It ordered the United States to review the capital murder convictions of 50 other Mexicans.¶ Although many conservatives have criticized the World Court for infringing on American sovereignty, all Americans should want President Obama and the 112th Congress to comply with the court's decision, to help ensure that Americans arrested abroad are given access to State Department officials.¶ The court's 2009 ruling involved 51 Mexican nationals, all of whom had been convicted and sentenced to death for heinous crimes in this country. None of them had been told at the time of their arrests about their right to meet with a Mexican Embassy official, as required by the Vienna Convention on Consular Relations.¶ The Vienna Convention, one of the most important international agreements to which the United States is party, was unanimously approved by the Senate in 1969 on the recommendation of then-President Richard Nixon. The convention provides legal rules for countries to help their companies or citizens who travel to or conduct business in foreign countries. A key provision requires parties to the treaty to promptly inform, upon arrest, nationals of other parties to the treaty that they have the right to meet with a consular official. Several thousand Americans are arrested in foreign countries every year, sometimes on trumped-up charges; this provision helps them alert their families, retain lawyers and receive help from the U.S. government.¶ In this instance, Mexico had brought a legal action before the International Court of Justice in 2003, claiming that the United States had violated the Vienna Convention. In 2004, the court ordered Washington to review the convictions of the 51 Mexicans to determine whether their lack of consular access had prejudiced their legal defenses. Under the U.N. Charter, which the Senate overwhelmingly approved in 1945, the United States is obligated to comply with the decisions of the World Court.¶ In 2005, to the surprise of liberals and conservatives, President George W. Bush directed state courts to review all of the Mexican convictions to comply with the U.N. Charter and ensure that Americans detained abroad receive reciprocal protections of the Vienna Convention.¶ The state of Texas challenged Bush's order, claiming that its former governor had exceeded his constitutional authority. In 2008, the U.S. Supreme Court agreed with Texas. In an opinion by Chief Justice John Roberts, while the court unanimously held that the United States has both an obligation under international law to comply with the World Court's decision and acknowledged a "plainly compelling" interest in ensuring reciprocal observance of the Vienna Convention, the court concluded that the U.S. Constitution does not give the president power to order state courts to review criminal convictions, even in an effort to comply with U.S. treaty obligations. Congress, the justices said, must give the president specific statutory authority to do so.¶ After the Supreme Court's decision, Texas promptly executed Jose Medellin, which led to the World Court decision in January 2009 that the United States had violated the World Court's previous order.¶ In contrast to the Bush administration, the Obama administration has made **less visible efforts to comply** with the World Court rulings. The White House has not asked Congress for legislation authorizing the president to order a review of the convictions of the remaining Mexican nationals, presumably because it **is not popular to side with an international tribunal** in favor of a group of convicted murderers. The next execution is scheduled for July.

#### No climate multilateralism — nationalism ensures gridlock

David Held 13, Professor of Politics and International Relations, at the University of Durham AND Thomas Hale, Postdoctoral Research Fellow at the Blavatnik School of Government, Oxford University AND Kevin Young, Assistant Professor in the Department of Political Science at the University of Massachusetts Amherst, 5/24/13, “Gridlock: the growing breakdown of global cooperation,” http://www.opendemocracy.net/thomas-hale-david-held-kevin-young/gridlock-growing-breakdown-of-global-cooperation

Gridlock exists across a range of different areas in global governance today, from security arrangements to trade and finance. This dynamic is, arguably, most evident in the realm of climate change. The diffusion of industrial production across the world—a process enabled by economic globalization—has created a situation in which the basic consumption of each individual directly affects the life chances of every other individual on the planet, as well as the life chances of future generations.¶ This is a powerful and entirely new form of global interdependence. Bluntly put, the future of our civilization depends on our ability to cooperate across borders. And yet, despite twenty years of multilateral negotiations under the UN, a global deal on climate change mitigation or adaptation remains elusive, with differences between developed countries, which have caused the problem, and developing countries, which will drive future emissions, forming the core barrier to progress. Unless we overcome gridlock in climate negotiations, as in other issue areas, we will be unable to continue to enjoy the peace and prosperity we have inherited from the postwar order.¶ There are, of course, several forces that might work against gridlock. These include the potential of social movements to uproot existing political constraints, catalysed by IT innovation and the use of associated technology for coordination across borders; the capacity of existing institutions to adapt and accommodate factors such as emerging multipolarity (the shift from the G-5/7 to the G-20 is one example); and efforts at institutional reform which seek to alter the organizational structure of global governance (for example, proposals to reform the Security Council or to establish a financial transaction tax). ¶ Whether there is the political will or leadership to move beyond gridlock remains a pressing question. Social movements find it difficult to convert protests into consolidated institutional change. At the same time, the political leadership of the great power blocs appears dogged by national concerns: Washington is sharply divided, Europe is preoccupied with the future of the Euro and China is absorbed by the challenge of sustaining economic growth as the prime vehicle of domestic legitimacy. Against this background, the further deepening of gridlock and the continuing failure to address global collective action problems appears likely.

#### No impact---mitigation and adaptation will solve---no tipping point or “1% risk” args

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

The heart of the debate about climate change comes from a number of warnings from scientists and others that give the impression that human-induced climate change is an immediate threat to society (IPCC 2007a,b; Stern 2006). Millions of people might be vulnerable to health effects (IPCC 2007b), crop production might fall in the low latitudes (IPCC 2007b), water supplies might dwindle (IPCC 2007b), precipitation might fall in arid regions (IPCC 2007b), extreme events will grow exponentially (Stern 2006), and between 20–30 percent of species will risk extinction (IPCC 2007b). Even worse, there may be catastrophic events such as the melting of Greenland or Antarctic ice sheets causing severe sea level rise, which would inundate hundreds of millions of people (Dasgupta et al. 2009). Proponents argue there is no time to waste. Unless greenhouse gases are cut dramatically today, economic growth and well‐being may be at risk (Stern 2006).

These statements are largely alarmist and misleading. Although climate change is a serious problem that deserves attention, society’s immediate behavior has an extremely low probability of leading to catastrophic consequences. The science and economics of climate change is quite clear that emissions over the next few decades will lead to only mild consequences. The severe impacts predicted by alarmists require a century (or two in the case of Stern 2006) of no mitigation. Many of the predicted impacts assume there will be no or little adaptation. The net economic impacts from climate change over the next 50 years will be small regardless. Most of the more severe impacts will take more than a century or even a millennium to unfold and many of these “potential” impacts will never occur because people will adapt. It is not at all apparent that immediate and dramatic policies need to be developed to thwart long‐range climate risks. What is needed are long‐run balanced responses.

### 2AC Ukraine Resolve DA

#### Obama’s Europe visit failed to revitalize the alliance --- should trigger the DA

Roger Cohen 3-27, NYT, “Obama’s Anemic Speech in Europe”, http://www.nytimes.com/2014/03/28/opinion/cohen-obamas-anemic-speech-in-europe.html

LONDON — Having pivoted to Asia and done the de rigueur minimum over several years to keep the trans-Atlantic alliance off life-support, Barack Obama awakened with a jolt to Europe this week and, on his first visit to Brussels as president, spoke of “inseparable allies” with a shared mission to demonstrate that Russia cannot “run roughshod over its neighbors.”¶ Shaken from a view of Europe as a kind of 20th-century yawn, Obama spoke of freedom and the ideas that bind the United States and Europe still in an ongoing “contest of ideas” against autocracy and “brute force.” He rightly rejected the notion that this is “another Cold War that we’re entering into,” noting that President Vladimir Putin of Russia represents “no global ideology.”¶ Mr. Obama, speaking at the Palais des Beaux Arts in Brussels on Wednesday, said America would live up to NATO obligations to defend alliance members.¶ He spoke in timely fashion of “our Article 5 duty” under the North Atlantic Treaty to respond with force to any attack on a NATO country, important reassurance to the Baltic states, among others. This military commitment was backed by reference to the need for “very real contingency plans” to protect NATO nations in Central and Eastern Europe. Those plans, to date, have been inadequate. Overall, the combination of sanctions against Russia, economic support for Ukraine, and the dispatch of additional military forces eastward sent a clear message to Putin — one that will not reverse Russia’s Crimea annexation but may stop him going any further.¶ Better late than never: The Russian president has benefited from the perception of a United States in full-tilt, war-weary retrenchment; of American red lines turning amber and then green; of a divided European Union; and a hollow NATO living more on the past than any vision of a 21st-century future. Obama has been making up for lost ground.¶ Still, his Brussels speech, presented as a capstone of his visit and one of those Obama specials designed to offset with eloquence a deficit of deeds, was a poor performance overall, a jejune collection of nostrums about binding values of free-market Western societies and their appeal to the hearts (and pocketbooks) of people throughout the world, not least Ukrainians.¶ The problem is not that these propositions are untrue. The United States and the European Union are still magnets to the poor and disenfranchised of the earth. The problem is not even that an argument that the Iraq war (with its myriad dead) is somehow more defensible than Crimea is impossible to win. The problem is Obama needed to be more honest.¶ The fact is the Western democracies he was exalting have been failing to deliver, and autocrats of the world, bare-chested Putin included, benefit indirectly from the resulting disenchantment.¶ It is not just the soaring unemployment in Europe (likely to prompt a surge by rightist anti-immigrant parties in European Parliament elections this year). It is not just the crisis (contained for now) of the euro and the unresolved issue of how the European integration needed to back the currency is to be achieved. It is not just the widespread disillusionment with a navel-gazing European Union seen as over-bureaucratic and under-democratic. It is not just the growing income disparities in both Europe and the United States, and the spreading middle-class dystopia, and the sense in democracies on both sides of the Atlantic that money has skewed fairness and electoral processes themselves. It is not just the sense that something has gone seriously wrong with a polarized American democracy where scorched-earth Republicans devote their politics to obstruction, and the government can grind to a halt as it did last year, and a C.E.O. can earn $80 million for a few weeks of work while incomes for most Americans are stagnant. It is not just the National Security Agency eavesdropping and data-vacuuming revelations. It’s not just the loss of a sense of possibility for many young people.¶ It is all of this. Unless Western societies find a way to shake their moroseness, level the playing field and rediscover, as Obama put it, the “simple truth that all men, and women, are created equal,” they are going to have a very hard time winning “the contest of ideas.”¶ Instead of a speech of weary worthiness, Obama should have addressed how an alliance neglected through much of his presidency can be revived; and how American and European democracies, for all their failings, can right themselves because that is the great distinguishing feature of open societies — their capacity for renewal.¶ “Now is not the time for bluster,” Obama intoned. “The situation in Ukraine, like crises in many parts of the world, does not have easy answers nor a military solution.”¶ This is true. But nor is it a time for clichés about the wonders of democracy, freedom, open-market economies, the rule of law and other underpinnings of the West. Not when democracy seems blocked, freedom sometimes selective, open markets cruel and the law harshest on those who have least.

#### Putin just backed down on Ukraine and sanctions solve --- this post-dates Obama’s Europe trip and all their ev

Mike Dorning 3-29, Bloomberg, “Russia Says No Plan to Invade Ukraine After Putin Calls Obama”, http://www.bloomberg.com/news/2014-03-28/putin-calls-obama-to-discuss-resolving-ukraine-crisis.html

Russia said it’s making headway with the U.S. and the European Union in resolving the dispute in Ukraine after presidents Vladimir Putin and Barack Obama spoke and the two countries’ top diplomats readied for more talks.¶ U.S. Secretary of State John Kerry will travel to Paris for a meeting with Russian Foreign Minister Sergei Lavrov, State Department spokeswoman Jen Psaki said today. In an hour-long telephone conversation initiated by Putin, Obama asked for a written response from the Russian leader to a plan that Kerry presented to Lavrov in The Hague earlier this week, according to a statement from the White House.¶ Putin is changing tack a week after signing legislation to complete Crimea’s accession to Russia, with tensions over Ukraine’s breakaway Black Sea peninsula sparking the worst standoff with the U.S. and Europe since the Cold War. With the U.S. warning that Russia’s military, energy and financial industries may become possible targets if Putin pushes deeper into Ukraine, Moody’s Investors Service said Russia’s credit rating may be cut as fallout from the crisis weighs on its economy.¶ Stepping Back?¶ “Russia is trying to cement the status quo by providing assurances to the West that it won’t go further and invade Ukraine,” Fyodor Lukyanov, head of the Moscow-based Council on Foreign and Defense Policy, said by phone today. “I don’t think Putin was planning to but Western leaders clearly feel that he’s stepping back because of the threat of more sanctions.”¶ Diplomatic efforts are gaining traction, with Kerry planning talks with Lavrov after speaking with his Russian counterpart during a flight home from Saudi Arabia today. The meeting in Paris is planned for tomorrow, Interfax reported, citing the Russian Foreign Ministry.¶ Putin initiated a conversation with the U.S. leader for the first time in their last seven exchanges by phone, according to the Kremlin’s website. The talks yesterday marked their fifth conversation since the Ukrainian crisis intensified with the ouster of Moscow-backed President Viktor Yanukovych last month.¶ Russian Wishes¶ Russia, the U.S. and EU nations are moving toward a joint initiative that may be submitted to Ukraine, Lavrov said today in comments published on his ministry’s website. Russia wants Ukraine to grant greater powers to its regions, have a non-aligned status outside NATO and make Russian a second official language, he said. Ukrainian parties today nominate candidates for the May 25 presidential election.¶ Ukraine’s acting president Oleksandr Turchynov has vetoed a law that would have eliminated Russian as a second official language, with the government denying that the rights of Russian speakers are under threat.¶ “We have absolutely no intentions or interest in crossing the borders of Ukraine,” Lavrov said. “We only really insist on working collectively and on putting an end to the outrages that western countries are sweeping under the rug.”¶ Concern that Russia’s economy would suffer from an extended confrontation over Ukraine has helped push the benchmark Micex Index (OPNMICX) down 10.6 percent this year. The gauge lost 11 percent this quarter and entered a bear market in March.

#### Obama’s resolve is already dead with Russia

Ronn Torossian 3/3, Frontpage Magazine, "The Only World Leader Who Fears American Power Is Obama", 2014, www.frontpagemag.com/2014/ronn-torossian/the-only-world-leader-who-fears-american-power-is-obama/

President Obama was caught by a live microphone in March 2012 telling President Dmitri Medvedev of Russia he would have “more flexibility” on Russian issues after the election. He continued, “this is my last election. After my election I have more flexibility.” Who could have imagined that Obama’s “flexibility” meant America being spanked all over the world, twisting, turning and as flexible as a piñata getting hit every which way spinning with no direction? That is foreign policy in the Obama era.¶ Putin continues to outmaneuver Obama in the area of foreign policy — including sheltering spy Edward Snowden, protecting Syria, and ensuring Iran will not give up their nuclear capabilities. America continues to be weaker in the world. Did flexibility mean getting run over when Obama told Russia he would have more flexibility? ¶ Today, only Obama, Kerry and Hagel are surprised that Russian parliament unanimously granted Putin permission to use the country’s military in Ukraine. Already, Russians have taken over two Ukrainian airports, and the Associated Press reported a convoy of nine Russian armored personnel carriers and a truck on a road between Sevastopol and the regional capital, Simferopol. This is consistent with Putin’s aggression. It is not surprising that Russia granted shelter to Ukraine’s President, Viktor Yanukovych and is protecting him.¶ The Obama Administration and their friends in the media mocked the Romney campaign for referring to Russia as “our number one geopolitical foe.” A New York Times editorial in March 2013 said Romney’s assertions regarding Russia represented either “a shocking lack of knowledge about international affairs or just craven politics.” Obama mocked Romney saying in a debate, “The 1980s are now calling to ask for their foreign policy back because the Cold War’s been over for 20 years.” Would he dare to say that now, or is Russia’s handling of the Ukraine situation the way allies treat one another?¶ Obama has shown how flexible he is time and time again. Putin has repeatedly capitalized upon Obama’s political weakness. As Putin wrote in his September 2013 New York Times op-ed, he described an “alarming” pattern of intervening in the internal conflicts of foreign countries. It appears to be more of the same now with the Ukraine, and comes at the expense of American pride and honor –because Obama is weak.

#### Codification creates effective decision-making

#### A) Congress makes deterrence credible

Matthew C. Waxman 13, Professor of Law, Columbia Law School; Adjunct Senior Fellow for Law and Foreign Policy, Council on Foreign Relations, “The Constitutional Power to Threaten War”, Forthcoming in Yale Law Journal, vol. 123 (2014), 2013, PDF

A second argument, this one advanced by some congressionalists, is that stronger legislative checks on presidential uses of force would improve deterrent and coercive strategies by making them more selective and credible. The most credible U.S. threats, this argument holds, are those that carry formal approval by Congress, which reflects strong public support and willingness to bear the costs of war; requiring express legislative backing to make good on threats might therefore be thought to enhance the potency of threats by encouraging the President to seek congressional authorization before acting.181 A frequently cited instance is President Eisenhower’s request (soon granted) for standing congressional authorization to use force in the Taiwan Straits crises of the mid- and late-1950s – an authorization he claimed at the time was important to bolstering the credibility of U.S. threats to protect Formosa from Chinese aggression.182 (Eisenhower did not go so far as to suggest that congressional authorization ought to be legally required, however.) “It was [Eisenhower’s] seasoned judgment … that a commitment the United States would have much greater impact on allies and enemies alike because it would represent the collective judgment of the President and Congress,” concludes Louis Fisher. “Single-handed actions taken by a President, without the support of Congress and the people, can threaten national prestige and undermine the presidency. Eisenhower’s position was sound then. It is sound now.”183 A critical assumption here is that legal requirements of congressional participation in decisions to use force filters out unpopular uses of force, the threats of which are unlikely to be credible and which, if unsuccessful, undermine the credibility of future U.S. threats.¶ A third view is that legal clarity is important to U.S. coercive and deterrent strategies; that ambiguity as to the President’s powers to use force undermines the credibility of threats. Michael Reisman observed, for example, in 1989: “Lack of clarity in the allocation of competence and the uncertain congressional role will sow uncertainty among those who depend on U.S. effectiveness for security and the maintenance of world order. Some reduction in U.S. credibility and diplomatic effectiveness may result.”184 Such stress on legal clarity is common among lawyers, who usually regard it as important to planning, whereas strategists tend to see possible value in “constructive ambiguity”, or deliberate fudging of drawn lines as a negotiating tactic or for domestic political purposes.185 A critical assumption here is that clarity of constitutional or statutory design with respect to decisions about force exerts significant effects on foreign perceptions of U.S. resolve to make good on threats, if not by affecting the substance of U.S. policy commitments with regard to force then by pointing foreign actors to the appropriate institution or process for reading them.

#### Obama won’t push the plan---wants legacy to be of ending wars

Greg Miller 13, and Karen DeYoung, Washington Post, “Administration debates stretching 9/11 law to go after new al-Qaeda offshoots”, March 6, www.washingtonpost.com/world/national-security/administration-debates-stretching-911-law-to-go-after-new-al-qaeda-offshoots/2013/03/06/fd2574a0-85e5-11e2-9d71-f0feafdd1394\_story.html

Working with Congress to update the AUMF is another option. The Senate Intelligence Committee has already begun considering ways to accomplish that. But Obama, who has claimed credit for winding down two wars, **is seen as reluctant to have the legislative expansion of another be added to his legacy**.¶ “This is an ongoing discussion, which we’ll probably continue to engage on the Hill,” the senior administration official said. “But I don’t know that there’s a giant desire to have ‘Son of AUMF’ now.”

#### Reject credibility based impacts---logical flaws and zero historical basis in war powers context

Ganesh Sitaraman 14, Assistant Professor of Law, Vanderbilt Law School, "Credibility and War Powers", January, www.harvardlawreview.org/issues/127/january14/forum\_1024.phpII. Credibility and Presidential War Powers

Despite the widespread use of credibility arguments in foreign policy, political scientists have convincingly argued that **these arguments suffer from logical flaws and have no** significant **basis in historical evidence when it comes to military threats**. Nonetheless, these arguments have migrated into constitutional debates on war powers, and “credibility” has become an important justification for presidential war powers. ¶ A. The Scope of Presidential War Powers¶ The scope of the President’s power to order the use of military force without congressional approval is unclear as a matter of law. The original meaning of the Constitution’s provisions related to war and peace are seriously debated, the Supreme Court has never issued an opinion that delineates the specific scope of presidential war powers, and Congress and the President have not come to an agreement on the exact scope of these powers.34 For practical purposes, the relevant legal framework comes from OLC in the Department of Justice. OLC has issued a number of opinions addressing the authority of the President to use force absent congressional approval.35 These opinions seek to determine when the use of force amounts to “war,” which for constitutional purposes requires congressional authorization, and they rely heavily on historical practice and prior legal reasoning.36 OLC’s opinions also identify credibility — particularly the credibility of the United Nations Security Council — as one element that contributes to the President’s independent constitutional authority to use force abroad. ¶ The OLC’s 2011 opinion on the President’s authority to use military force in Libya is the most recent statement.37 The Libya Opinion sets forth a two-prong framework for assessing the President’s authority to use force, absent congressional authorization. First, the military operation must serve “sufficiently important national interests” to justify presidential action based on the Commander-in-Chief and Chief Executive powers and the President’s authority to conduct foreign relations.38 Second, the military operation must have an anticipated “nature, scope, and duration” that does not constitute “war.”39 For purposes of credibility arguments, the national interest prong is the relevant element, and recent OLC legal opinions identify three different categories of “national interest” that can justify the President’s independent authority to use force. Note that OLC opinions, such as the Libya Opinion, generally state that a combination of interests creates sufficient foundation for presidential action;40 as a result, it is not clear whether some of these interests can independently provide a sufficient basis for presidential action. ¶ The narrowest and least controversial category of national interest is the power to repel attacks on the United States41 and to “protect the lives and property of Americans abroad.”42 OLC opinions on presidential action in Iran (1980), Somalia (1992), Bosnia (1995), Haiti (2004), and Libya (2011) all reference this narrow authority,43 as do a 1941 Attorney General opinion44 and the 1860 case, Durand v. Hollins.45 ¶ More recently, OLC has identified “preservation of regional stability” as a possible national interest in its Libya (2011), Haiti (2004), and Bosnia (1995) opinions. The boundaries of the regional category are slippery, particularly as Presidents can argue that “regional stability” is vital, even in regions that may be of comparatively little strategic value to the United States. ¶ The final category is the United States’ interest in “maintaining the credibility of United Nations Security Council decisions.”46 In the Libya Opinion, the OLC quoted President Obama as saying that “[t]he writ of the United Nations Security Council would have been shown to be little more than empty words, crippling that institution’s future credibility to uphold global peace and security.”47 It concluded that the President could find this a “substantial national foreign policy objective.”48 ¶ OLC opinions from Somalia (1992), Haiti (2004), and Libya (2011) all root the U.N. credibility argument in the Truman Administration’s opinion authorizing the use of military force in Korea.49 That opinion noted that if the United States did not take action, then the United Nations would have “ceased to exist as a serious instrumentality for the maintenance of international peace,”50 and it stated that the “continued existence of the United Nations as an effective international organization is a paramount United States interest.”51 Despite frequent citation, the Korea Opinion — and other Cold War–era opinions — actually do not rely on credibility arguments.52 Instead, they focus on enforcing collective security agreements53 or on the President’s responsibility to “Take Care” that the laws, including treaties, be “faithfully executed.”54 Importantly, this shift from the “Take Care” argument to a “credibility” argument turns a legal argument about treaty obligations into a policy argument about U.S. interests. ¶ B. The Case Against Credibility¶ The OLC’s policy argument that reliance on the credibility of the United Nations Security Council is a legitimate “national interest” that justifies presidential action without prior congressional approval is troubling. Political science research, basic logical reasoning about credibility, and concerns about future OLC expansion of the “credibility” category all **suggest that credibility arguments should be left out of the constitutional law of war powers.** ¶ First, research in political science has demonstrated that credibility arguments are logically problematic and without serious historical support. Constitutional doctrine should not rest on such logically and factually flawed premises. All the other justifications for independent presidential authority have at least arguable policy justifications. The defensive interests in repelling attacks and protecting American lives and property abroad rely on the country’s obligation to protect its citizens. The regional interest, while certainly broader and opaque in its boundaries, can be justified on policy grounds. When the Bosnia Opinion (1995) referenced the American national interest in European security and stability, it was in the context of the recent end of a half-century-long Cold War that divided Europe — which itself was the product of a half-century defined by two world wars that began in Europe and led to American involvement.55 Case by case, regional arguments can be contested, but they at least offer the possibility of a policy justification. Credibility arguments are on a far weaker foundation. ¶ To be sure, one might argue that that there is a difference between national credibility, which political scientists have investigated, and the credibility of international institutions. While the actor is different, the distinctions are minor. An international institution’s likelihood of acting in any given situation is understood ex ante to be a function, at least in part, of its procedures and decision rules. The U.N. Security Council, for example, is famously limited by the permanent five’s veto powers. If anything, this fact means that past actions and reputational credibility theories will almost invariably be weaker when applied to the United Nations, as compared to a single country, because action depends on multinational agreement. ¶ Second, the United States interest in the “credibility” of the U.N. Security Council is questionable on its own terms. The Libya Opinion states that the United States is not required to act when the Security Council has authorized action.56 The OLC has also explicitly recognized that the United States may use force without Security Council authorization.57 The opinions thus allow the United States to abandon the credibility of the Security Council if the United States does not want to use force. This might not be too troubling, as it is surely possible for the President to have authority to act, but choose not to use it. But for those who defend the U.N. credibility argument, it should be extremely troubling that the United States can abandon the credibility of the Security Council if the U.N. does not authorize force and the United States wants to act anyway. Because the U.N. Charter’s provisions limit the use of force in the absence of self-defense or a Security Council resolution,58 U.S. action without U.N. authorization would actually undermine the United Nations’ credibility. In other words, OLC is trying to have it both ways. ¶ Third, the presence of credibility arguments in OLC opinions creates a risk that future opinions will build on these flawed foundations — expanding credibility from the U.N. to the nation’s credibility more generally. The Kosovo case provides an example of creep in precedent. In the Libya Opinion, OLC referred to the 1999 Kosovo action as a “precedent.” In public discourse, Kosovo was justified in part on the credibility of NATO (there was no U.N. resolution for Kosovo).59 If the Kosovo action is now “precedent,” it is possible that future OLC lawyers will expand the credibility justification to NATO, other international organizations,60 or maybe even to the credibility of the United States’ threats. **The expansion of the credibility argument in constitutional doctrine is troubling because it could allow Presidents to bootstrap themselves into war**.

If the president knows that she can act independently to engage America in a conflict if there is a credibility interest at stake, then she has an incentive to create credibility interests. A strategic president could decide to declare “red lines” in order to build for herself the constitutional authority necessary to enforce those “red lines” in the future.61 ¶ While conscientious executive branch lawyering could obviously stop the country from sliding down this slippery slope, there is nonetheless a risk that future OLC opinions will expand credibility to encompass such situations.62 Indeed, the Syria case suggests that the “national interests” prong is generally subject to slippage.63 The U.N. Security Council did not authorize action in Syria and the Obama Administration did not claim that U.S. persons or property were at risk. Still, President Obama seemed confident he could act without congressional authorization. Professor Harold Koh has offered a defense of the use of force in Syria, absent prior congressional authorization. Citing the Bosnia (1995) and Libya (2011) opinions, he identifies “promoting regional stability and preventing destruction of the near-century-old ban on chemical weapons” as sufficient national interests.64 It is striking, however, that the latter interest is not referenced specifically in either of the opinions Koh cites. It is also worth noting that Koh’s argument is not a credibility argument, as it is defined here. The literature in political science — and the argument here — is about the credibility of threats, not the robustness of international norms (even if the word “credibility” is used to describe robustness). There may be non-credibility reasons to enforce international norms and one could debate whether those reasons are sufficient to justify unilateral presidential action,65 but the point here is simply to bury credibility arguments. Given the possibility of slippage from current doctrine, credibility arguments are a loaded gun, ready to be fired by hawkish presidents who have willing executive branch lawyers. ¶ A better approach would be for OLC to simply eliminate credibility from the “national interests” that justify presidential power to use force, in the absence of congressional authorization. This is not to say that credibility could not be used in rhetoric or as a policy justification (although its use should probably be viewed with skepticism, given the political science research). Rather, the credibility justification is sufficiently problematic that presidents should have to get congressional authorization to use force first.66 Note also that removing credibility arguments from constitutional doctrine would not eliminate the United Nations from legal debates about the use of force. Security Council authorizations are still required as a matter of international law (outside self-defense). And if the United States wants to act outside of that constraint, presidents would still have an incentive to obtain U.N. authorization to build support in domestic and international public opinion. Even more indirectly, of course, presidents could always argue that the U.N. Security Council’s authorization provides a signal of how important the underlying policy issues are. But for purposes of constitutional authority, presidents would have to argue that they have new independent authorities to use force (such as enforcing U.N. resolutions or supporting international norms), resurrect legal arguments about the Take Care Clause and collective security treaties, or take their case to Congress — not rely on the questionable interest in the United Nations or the country’s “credibility.” ¶ Conclusion¶ Credibility arguments are everywhere in foreign policy. From Truman to Reagan to Obama, presidents have argued that force was necessary not just to advance concrete interests but to preserve credibility. Constitutional lawyers have not been immune to these arguments, with executive branch legal opinions identifying the credibility of the United Nations as a national interest that justifies presidential authority to use force, absent prior congressional approval. **However, political scientists have demonstrated that in the context of military threats, credibility arguments are logically problematic and have little historical support**. Constitutional lawyers should not rely on these faulty foundations to justify unilateral presidential war powers.

# 1AR

## CP

### Can’t Solve

#### Other countries oppose ICJ binding arbitration over national policies

Sean D. Murphy, George Washington University School of Law, 2-8-2007 , The United States and the International Court of Justice: Coping with Antinomies http://www.law.georgetown.edu/internationalhrcolloquium/documents/PICTProjectICJPaper.pdf

While the termination of this acceptance of the Court’s compulsory jurisdiction may be unfortunate, the United States is in the company of its peers. The only permanent member of the Security Council that currently accepts the Court’s compulsory jurisdiction is the United Kingdom; China, France, and Russia have not done so. Further, the United Kingdom’s acceptance is conditioned by several significant reservations that make it quite difficult to sue the United Kingdom before the Court. Moreover, the **vast majority** of states have not accepted the Court’s compulsory jurisdiction. Of 192 member states of the United Nations, only 65 have accepted the Court’s compulsory jurisdiction as of January 2005 (see Table # 2 at end of paper), and many of those acceptances contain conditions and reservations that significantly limit the state’s consent.74 Finally, the United States arguably was terminating an adherence to the Court’s compulsory jurisdiction that was, from the start, illusory, given the nature, scope, and effect of the Connally reservation.

### AT: Warming

#### Climate multilat fails

Hale, 11---PhD Candidate in the Department of Politics at Princeton University and a Visiting Fellow at LSE Global Governance, London School of Economics (Thomas, © 2011 Center for Strategic and International Studies, The Washington Quarterly, 34:1 pp. 89-101, “A Climate Coalition of the Willing,” <http://www.twq.com/11winter/docs/11winter_Hale.pdf>)

Intergovernmental efforts to limit the gases that cause climate change have all but failed. After the unsuccessful 2010 Copenhagen summit, and with little progress at the 2010 Cancun meeting, it is hard to see how major emitters will agree any time soon on mutual emissions reductions that are sufficiently ambitious to prevent a substantial (greater than two degree Celsius) increase in average global temperatures.¶ It is not hard to see why. No deal excluding the United States and China, which together emit more than 40 percent of the world’s greenhouse gases (GHGs), is worth the paper it is written on. But domestic politics in both countries effectively block ‘‘G-2’’ leadership on climate. In the United States, the Obama administration has basically given up on national cap-and-trade legislation. Even the relatively modest Kerry-Lieberman-Graham energy bill remains dead in the Senate. The Chinese government, in turn, faces an even harsher constraint. Although the nation has adopted important energy efficiency goals, the Chinese Communist Party has staked its legitimacy and political survival on raising the living standard of average Chinese. Accepting international commitments that stand even a small chance of reducing the country’s GDP growth rate below a crucial threshold poses an unacceptable risk to the stability of the regime. Although the G-2 present the largest and most obvious barrier to a global treaty, they also provide a convenient excuse for other governments to avoid aggressive action. Therefore, the international community should not expect to negotiate a worthwhile successor to the Kyoto Protocol, at least not in the near future.

## DA

### AT: Russia War

#### No impact

David E. Hoffman 12, contributing editor to Foreign Policy and the author of The Dead Hand: The Untold Story of the Cold War Arms Race and Its Dangerous Legacy, which won the 2010 Pulitzer Prize for general non-fiction, 10/22, "Hey, Big Spender," Foreign Policy, www.foreignpolicy.com/articles/2012/10/22/hey\_big\_spender?page=full

Despite tensions that flare up, the United States and Russia are no longer enemies; **the chance of nuclear war or surprise attack is nearly zero**. We trade in each other's equity markets. Russia has the largest audience of Facebook users in Europe, and is open to the world in a way the Soviet Union never was.

#### No motive or capability

Betts 13 Richard is the Arnold A. Saltzman Professor of War and Peace Studies @ Columbia. “The Lost Logic of Deterrence,” Foreign Affairs, March/April, Vol. 92, Issue 2, Online

These continuities with the Cold War would make sense only between intense adversaries. Washington and Moscow remain in an adversarial relationship, but not an intense one. If the Cold War is really over, and the West really won, then continuing implicit deterrence does less to protect against a negligible threat from Russia than to feed suspicions that aggravate political friction. In contrast to during the Cold War, it is now hard to make the case that Russia is more a threat to NATO than the reverse. First, the East-West balance of military capabilities, which at the height of the Cold War was favorable to the Warsaw Pact or at best even, has not only shifted to NATO's advantage; it has become utterly lopsided. Russia is now a lonely fraction of what the old Warsaw Pact was. It not only lost its old eastern European allies; those allies are now arrayed on the other side, as members of NATO. By every significant measure of power -- military spending, men under arms, population, economic strength, control of territory -- NATO enjoys massive advantages over Russia. The only capability that keeps Russia militarily potent is its nuclear arsenal. There is no plausible way, however, that Moscow's nuclear weapons could be used for aggression, except as a backstop for a conventional offensive -- for which NATO's capabilities are now far greater.¶ Russia's intentions constitute no more of a threat than its capabilities. Although Moscow's ruling elites push distasteful policies, there is no plausible way they could think a military attack on the West would serve their interests. During the twentieth century, there were intense territorial conflicts between the two sides and a titanic struggle between them over whose ideology would dominate the world. Vladimir Putin's Russia is authoritarian, but unlike the Soviet Union, it is not the vanguard of a globe-spanning revolutionary ideal.

### Ukraine Pounder

#### Ukraine already sent a signal --- overwhelms the aff

Joel B. Pollack 3/2, Breitbart, "Putin Humiliates Obama--And U.S. Media--In Ukraine", 2014, www.breitbart.com/Big-Peace/2014/03/02/Putin-Humiliates-Obama-and-U-S-Media-in-Ukraine

Russian President Vladimir Putin has humiliated President Barack Obama. He advanced soldiers into the Crimea--into the sovereign territory of Ukraine--without uniforms, in apparent violation of the laws of war. He knew that Obama would not dare complain—that the White House would, in fact, seize upon the ambiguity of the invasion as a way to pretend it had not yet happened. And then, of course, it did, after the Duma rubber-stamped Putin’s plans, after the world took the measure of Obama’s hand-wringing non-response to the crisis.¶ It is hard to recall a more complete setback for American power. Jimmy Carter’s response to the Soviet invasion Afghanistan was more convincing—and in that case the USSR was at least shoring up a socialist regime. The Ukraine is a free, albeit troubled, government, one of the most important post-Soviet states, struggling to chart an independent path—and the U.S. has done almost nothing to defend it. President Obama declared: “We will stand with the international community.” Not the Ukraine itself. The Ukraine must stand--or fall--alone.

### Cred Theory Wrong

#### Finishing Sitaraman

If the president knows that she can act independently to engage America in a conflict if there is a credibility interest at stake, then she has an incentive to create credibility interests. A strategic president could decide to declare “red lines” in order to build for herself the constitutional authority necessary to enforce those “red lines” in the future.61 ¶ While conscientious executive branch lawyering could obviously stop the country from sliding down this slippery slope, there is nonetheless a risk that future OLC opinions will expand credibility to encompass such situations.62 Indeed, the Syria case suggests that the “national interests” prong is generally subject to slippage.63 The U.N. Security Council did not authorize action in Syria and the Obama Administration did not claim that U.S. persons or property were at risk. Still, President Obama seemed confident he could act without congressional authorization. Professor Harold Koh has offered a defense of the use of force in Syria, absent prior congressional authorization. Citing the Bosnia (1995) and Libya (2011) opinions, he identifies “promoting regional stability and preventing destruction of the near-century-old ban on chemical weapons” as sufficient national interests.64 It is striking, however, that the latter interest is not referenced specifically in either of the opinions Koh cites. It is also worth noting that Koh’s argument is not a credibility argument, as it is defined here. The literature in political science — and the argument here — is about the credibility of threats, not the robustness of international norms (even if the word “credibility” is used to describe robustness). There may be non-credibility reasons to enforce international norms and one could debate whether those reasons are sufficient to justify unilateral presidential action,65 but the point here is simply to bury credibility arguments. Given the possibility of slippage from current doctrine, credibility arguments are a loaded gun, ready to be fired by hawkish presidents who have willing executive branch lawyers. ¶ A better approach would be for OLC to simply eliminate credibility from the “national interests” that justify presidential power to use force, in the absence of congressional authorization. This is not to say that credibility could not be used in rhetoric or as a policy justification (although its use should probably be viewed with skepticism, given the political science research). Rather, the credibility justification is sufficiently problematic that presidents should have to get congressional authorization to use force first.66 Note also that removing credibility arguments from constitutional doctrine would not eliminate the United Nations from legal debates about the use of force. Security Council authorizations are still required as a matter of international law (outside self-defense). And if the United States wants to act outside of that constraint, presidents would still have an incentive to obtain U.N. authorization to build support in domestic and international public opinion. Even more indirectly, of course, presidents could always argue that the U.N. Security Council’s authorization provides a signal of how important the underlying policy issues are. But for purposes of constitutional authority, presidents would have to argue that they have new independent authorities to use force (such as enforcing U.N. resolutions or supporting international norms), resurrect legal arguments about the Take Care Clause and collective security treaties, or take their case to Congress — not rely on the questionable interest in the United Nations or the country’s “credibility.” ¶ Conclusion¶ Credibility arguments are everywhere in foreign policy. From Truman to Reagan to Obama, presidents have argued that force was necessary not just to advance concrete interests but to preserve credibility. Constitutional lawyers have not been immune to these arguments, with executive branch legal opinions identifying the credibility of the United Nations as a national interest that justifies presidential authority to use force, absent prior congressional approval. **However, political scientists have demonstrated that in the context of military threats, credibility arguments are logically problematic and have little historical support**. Constitutional lawyers should not rely on these faulty foundations to justify unilateral presidential war powers.

#### Zero data supports the resolve or credibility thesis

Jonathan Mercer 13, associate professor of political science at the University of Washington in Seattle and a Fellow at the Center for International Studies at the London School of Economics, 5/13/13, “Bad Reputation,” <http://www.foreignaffairs.com/articles/136577/jonathan-mercer/bad-reputation>

Since then, the debate about what to do in Syria has been sidetracked by discussions of how central reputation is to deterrence, and whether protecting it is worth going to war.

There are two ways to answer those questions: through evidence and through logic. The first approach is easy. Do leaders assume that other leaders who have been irresolute in the past will be irresolute in the future and that, therefore, their threats are not credible? No; broad and deep evidence dispels that notion. In studies of the various political crises leading up to World War I and of those before and during the Korean War, I found that leaders did indeed worry about their reputations. But their worries were often mistaken.

For example, when North Korea attacked South Korea in 1950, U.S. Secretary of State Dean Acheson was certain that America’s credibility was on the line. He believed that the United States’ allies in the West were in a state of “near-panic, as they watched to see whether the United States would act.” He was wrong. When one British cabinet secretary remarked to British Prime Minister Clement Attlee that Korea was “a rather distant obligation,” Attlee responded, “Distant -- yes, but nonetheless an obligation.” For their part, the French were indeed worried, but not because they doubted U.S. credibility. Instead, they feared that American resolve would lead to a major war over a strategically inconsequential piece of territory. Later, once the war was underway, Acheson feared that Chinese leaders thought the United States was “too feeble or hesitant to make a genuine stand,” as the CIA put it, and could therefore “be bullied or bluffed into backing down before Communist might.” In fact, Mao thought no such thing. He believed that the Americans intended to destroy his revolution, perhaps with nuclear weapons.

Similarly, Ted Hopf, a professor of political science at the National University of Singapore, has found that the Soviet Union did not think the United States was irresolute for abandoning Vietnam; instead, Soviet officials were surprised that Americans would sacrifice so much for something the Soviets viewed as tangential to U.S. interests. And, in his study of Cold War showdowns, Dartmouth College professor Daryl Press found reputation to have been unimportant. During the Cuban Missile Crisis, the Soviets threatened to attack Berlin in response to any American use of force against Cuba; despite a long record of Soviet bluff and bluster over Berlin, policymakers in the United States took these threats seriously. As the record shows, reputations do not matter.

#### Overwhelming political science data disproves the credibility thesis---allies and adversaries base assessments on interests involved in individual situations, not overall reputation

Ganesh Sitaraman 14, Assistant Professor of Law, Vanderbilt Law School, January 2014, “Credibility and War Powers,” Harvard Law Review Forum, <http://www.harvardlawreview.org/issues/127/january14/forum_1024.php>

In a series of qualitative studies, political scientists have shown that past actions and reputation theories of credibility have little historical basis for support.22 When leaders evaluate their opponents, they assess threats based on current calculations, not on past actions. And when leaders have justified conflicts based on preserving a reputation for resolve, others have not always interpreted their actions as was intended. Note that these studies are limited to the context of military threats and international crises. Scholars hypothesize that military threats might differ from other contexts because the stakes are so high that leaders analyze the situation instead of using heuristics like reputation.23 These findings therefore do not extend to all international issues.24

In the most extensive research on credibility theories, Professor Daryl Press reviewed thousands of pages of archival documents and found that the current calculus theory, not the past action theory, best explains decisionmaking in the “appeasement crises” of the 1930s, the Berlin crises of the late 1950s and early 1960s, and the deliberations during the Cuban Missile Crisis. On the past actions theory, the Nazis should have interpreted British and French threats as not credible because the Allies repeatedly backed down when Germany took aggressive steps in the 1930s. The historical evidence, however, shows that German leaders believed British and French threats were credible — even after the Allies backed down. For the German leaders, credibility was a function of the Allies’ power, not their reputation. Indeed, Press finds that German leaders almost never referenced past actions by the British and French. Accordingly, he concludes that appeasement was poor strategy not because the Allies undermined their credibility, but because it allowed Germany to increase its power.25

From 1958 to 1961, the world watched a number of Berlin crises unfold between the Soviets and the West. Soviet Premier Nikita Khrushchev set six-month deadlines for the Allies to withdraw from West Berlin, and he threatened to cut off access to the city. Yet every time, Khrushchev backed down. On the past actions theory, British and American leaders should have interpreted each successive threat as less credible. However, Press found that Soviet threats actually became more credible, not less credible.26 During this same period, the Soviets expanded their nuclear arsenal; as their nuclear prowess grew, so did their credibility. Indeed, by the time of the Cuban Missile Crisis, American leaders strongly believed that Khrushchev would not back down if the United States acted in Cuba. Here too Press finds that British and American leaders almost never mentioned Khrushchev’s record of bluffing.27

In an important book on reputation, Mercer analyzed the crises leading up to World War I.28 He finds that decisionmakers interpreted their adversaries’ backing down based more on the specific situational context, rather than on the disposition

of the actors.29 Thus, when the Germans backed down, the Triple Entente of Britain, France, and Russia attributed those defeats to situational factors. To the extent they considered past actions, the Entente believed Germany would be more likely to follow through on its threats in the future because it had previously been defeated. Note also that both Press’s and Mercer’s cases stack the deck in favor of past actions theory: the players were the same, there were repeated crises in a short period of time, and the crises involved the same issues. These are precisely the situations in which we would expect past action theories of credibility to be most powerful at explaining behavior.

Looking specifically at military actions justified by credibility arguments, political scientists have also provided historical evidence that allies and adversaries do not necessarily interpret these actions as enhancing America’s reputation or credibility. In a study of the Korean War, Mercer recounts how Secretary of State Dean Acheson believed that Western European allies were at “near-panic” over whether the United States would act.30 They were not. When the British Cabinet met to discuss the issue, Korea was fourth on their agenda and some of the ministers could not locate Korea on the map.31 Meanwhile, the French were concerned that the Americans would be too resolute. They worried that the United States would start a world war over what they saw as an area that was strategically unimportant.32 In another study, Professor Ted Hopf analyzed the Soviet reaction to the United States’s withdrawal from Vietnam. Hopf found that the Soviets did not see United States withdrawal as decreasing American credibility in the Cold War.33