# 1NC

## 1NC K

#### The judiciary is simply an object of the sovereign – they cannot be trusted to resolve issues of indistinction without reconstructing “the camp”

Edkins 2k, Jenny Edkins, faculty member of the school of International Politics at Aberystwyth University, “Sovereign Power, Zones of Indisitinction, and the Camp,” Alternatives: Global, Local, Political, Vol. 25, Is. 3

\*\*\*Gendered language not endorsed

More than this inclusion by exclusion, sovereign power in the West is constituted by its ability to suspend itself in a state of exception, or ban: “The originary relation of Law to life is not application but abandonment.”’5 The paradox of sovereignty is that the sovereign is at the same time inside and outside the sovereignorder: the sovereign can suspend the law. What defines the rule of law is the state of exception when law is suspended. The very space in which juridical order can have validity is created and defined through the sovereign exception. However, the exception that defines the structure of sovereignty is more complex than the inclusion of what is outside by means of an interdiction.16 It is not just a question of creating a distinction between inside and outside: it is the tracing of a threshold between the twos a location where inside and outside enter into a zone of indistinction. It is this state of exception, or the zone of indistinction between inside and outside, that makes the modern juridical order of the West possible. The camp is exemplary as a location of a zone of indistinction. Although in general the camp is set up precisely as part of a state of emergency or martial law, under Nazi rule this becomes not so much a state of exception in the sense of an external and provisional state of danger as a means of establishing the Nazi state it self. The camp is “the space opened up when the state of exception begins to become the rule.”17 In the camp, the distinction between the rule of law and chaos disappears: decisions about life and death are entirely arbitrary, and everything is possible. A zone of indistinction appears between outside and inside, exception and rule, licit and illicit. What happened in the twentieth century in the West, and paradigmatically since the advent of the camp, was that the space of the state of exception transgressed its bound aries and started to coincide with the normal order, The zone of indistinction expanded from a space of exclusion within the normal order to take over that order entirely.In the concentration camp, inhabitants are stripped of every political status, and the arbitrary power of the camp attendants confronts nothing but what Agamben calls bare life, or homo sacer a creature who can be killed but not sacrificed.18 This figure, an essential figure in modern politics, is constituted by and constitutive of sovereign power. Homo sacer is produced by the sovereign ban and is subject to two exceptions: he is excluded from human law (killing him does not count as homicide) and he is excluded from divine law (killing him is not a ritual killing and does not count as sacrilege). He is Set outside human jurisdiction without being brought into the realm of divine law. This double exclusion of course also counts as a double inclusion: “homo sacer belongs to God in the form of unsacrificability and is included in the community in the form of being able to be killed.”19 This exposes homo sacer to a flow kind of human violence such as is found in the camp and constitutes the political as the double exception: the exclusion of both the sacred and the profane.

#### The Alternative is to imagine Whatever Being--Any point of rejection of the sovereign state creates a non-state world made up of whatever life – that involves imagining a political body that is outside the sphere of sovereignty in that it defies traditional attempts to maintain a social identity

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(Anne, “Bio-Sovereignty and the Emergence of Humanity,” Theory & Event, Volume 7, Issue 2, Project Muse)

Can we imagine another form of humanity, and another form of power? The bio-sovereignty described by Agamben is so fluid as to appear irresistible. Yet Agamben never suggests this order is necessary. Bio-sovereignty results from a particular and contingent history, and it requires certain conditions. Sovereign power, as Agamben describes it, finds its grounds in specific coordinates of life, which it then places in a relation of indeterminacy. What defies sovereign power is a life that cannot be reduced to those determinations: a life "that can never be separated from its form, a life in which it is never possible to isolate something such as naked life. " (2.3). In his earlier Coming Community, Agamben describes this alternative life as "whatever being." More recently he has used the term "forms-of-life." These concepts come from the figure Benjamin proposed as a counter to homo sacer: the "total condition that is 'man'." For Benjamin and Agamben, mere life is the life which unites law and life. That tie permits law, in its endless cycle of violence, to reduce life an instrument of its own power. The total condition that is man refers to an alternative life incapable of serving as the ground of law. Such a life would exist outside sovereignty. Agamben's own concept of whatever being is extraordinarily dense. It is made up of varied concepts, including language and potentiality; it is also shaped by several particular dense thinkers, including Benjamin and Heidegger. What follows is only a brief consideration of whatever being, in its relation to sovereign power. / "Whatever being," as described by Agamben, lacks the features permitting the sovereign capture and regulation of life in our tradition. Sovereignty's capture of life has been conditional upon the separation of natural and political life. That separation has permitted the emergence of a sovereign power grounded in this distinction, and empowered to decide on the value, and non-value of life (1998: 142). Since then, every further politicization of life, in turn, calls for "a new decision concerning the threshold beyond which life ceases to be politically relevant, becomes only 'sacred life,' and can as such be eliminated without punishment" (p. 139). / This expansion of the range of life meriting protection does not limit sovereignty, but provides sites for its expansion. In recent decades, factors that once might have been indifferent to sovereignty become a field for its exercise. Attributes such as national status, economic status, color, race, sex, religion, geo-political position have become the subjects of rights declarations. From a liberal or cosmopolitan perspective, such enumerations expand the range of life protected from and serving as a limit upon sovereignty. Agamben's analysis suggests the contrary. If indeed sovereignty is bio-political before it is juridical, then juridical rights come into being only where life is incorporated within the field of bio-sovereignty. The language of rights, in other words, calls up and depends upon the life caught within sovereignty: homo sacer. / Agamben's alternative is therefore radical. He does not contest particular aspects of the tradition. He does not suggest we expand the range of rights available to life. He does not call us to deconstruct a tradition whose power lies in its indeterminate status.21 Instead, he suggests we take leave of the tradition and all its terms. Whatever being is a life that defies the classifications of the tradition, and its reduction of all forms of life to homo sacer. Whatever being therefore has no common ground, no presuppositions, and no particular attributes. It cannot be broken into discrete parts; it has no essence to be separated from its attributes; and it has no common substrate of existence defining its relation to others. Whatever being cannot then be broken down into some common element of life to which additive series of rights would then be attached. Whatever being retains all its properties, without any of them constituting a different valuation of life (1993: 18.9). As a result, whatever being is "reclaimed from its having this or that property, which identifies it as belonging to this or that set, to this or that class (the reds, the French, the Muslims) -- and it is reclaimed not for another class nor for the simple generic absence of any belonging, but for its being-such, for belonging itself." (0.1-1.2). / Indifferent to any distinction between a ground and added determinations of its essence, whatever being cannot be grasped by a power built upon the separation of a common natural life, and its political specification. Whatever being dissolves the material ground of the sovereign exception and cancels its terms. This form of life is less post-metaphysical or anti-sovereign, than a-metaphysical and a-sovereign. Whatever is indifferent not because its status does not matter, but because it has no particular attribute which gives it more value than another whatever being. As Agamben suggests, whatever being is akin to Heidegger's Dasein. Dasein, as Heidegger describes it, is that life which always has its own being as its concern -- regardless of the way any other power might determine its status. Whatever being, in the manner of Dasein, takes the form of an "indissoluble cohesion in which it is impossible to isolate something like a bare life. In the state of exception become the rule, the life of homo sacer, which was the correlate of sovereign power, turns into existence over which power no longer seems to have any hold" (Agamben 1998: 153). / We should pay attention to this comparison. For what Agamben suggests is that whatever being is not any abstract, inaccessible life, perhaps promised to us in the future. Whatever being, should we care to see it, is all around us, wherever we reject the criteria sovereign power would use to classify and value life. "In the final instance the State can recognize any claim for identity -- even that of a State identity within the State . . . What the State cannot tolerate in any way, however, is that the singularities form a community without affirming an identity, that humans co-belong without a representable condition of belonging" (Agamben 1993:85.6). At every point where we refuse the distinctions sovereignty and the state would demand of us, the possibility of a non-state world, made up of whatever life, appears.

## 1NC “armed hostilities”

#### War Powers resolution draws distinction between INTO HOSTILITIES and SIMPLY FORWARD DEPLOYMENT

Holan and Jacobson 11

(Angie Drobnic Holan and Louis Jacobson Published on Wednesday, June 22nd, 2011 at 11:38 a.m. Are U.S. actions in Libya subject to the War Powers Resolution? A review of the evidence, <http://www.politifact.com/truth-o-meter/article/2011/jun/22/are-us-actions-libya-subject-war-powers-resolution/>)

To research the administration's claim, we first turned to the law itself. The War Powers Resolution, passed in 1973, is not long; you can read it here. The resolution doesn't define "hostilities," but it does say that the president must go to Congress under three possible conditions if there is no formal declaration of war:¶ "In any case in which United States Armed Forces are introduced— (1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances; (2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or (3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation."

1. Violation – the affirmative only restricts the abiity to maintain overseas bases, not the actual introduction of forces into conflict zones.
2. Vote neg for limits – hundreds of US bases makes it impossible to be neg

## 1nc Restrict T

#### A. Definitions

#### The only War Power authority is the ability to MAKE MILITARY DECISIONS

Bajesky 13 (2013¶ Mississippi College Law Review¶ 32 Miss. C. L. Rev. 9¶ LENGTH: 33871 words ARTICLE: Dubitable Security Threats and Low Intensity Interventions as the Achilles' Heel of War Powers NAME: Robert Bejesky\* BIO: \* M.A. Political Science (Michigan), M.A. Applied Economics (Michigan), LL.M. International Law (Georgetown). The author has taught international law courses for Cooley Law School and the Department of Political Science at the University of Michigan, American Government and Constitutional Law courses for Alma College, and business law courses at Central Michigan University and the University of Miami.)

A numerical comparison indicates that the Framer's intended for Congress to be the dominant branch in war powers. Congressional war powers include the prerogative to "declare war;" "grant Letters of Marque and Reprisal," which were operations that fall short of "war"; "make Rules for Government and Regulation of the land and naval Forces;" "organize, fund, and maintain the nation's armed forces;" "make Rules concerning Captures on Land and Water," "raise and support Armies," and "provide and maintain a Navy." [n25](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n25) In contrast, the President is endowed with one war power, named as the Commander-in-Chief of the Army and Navy. [n26](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n26)¶ The Commander-in-Chief authority is a core preclusive power, predominantly designating that the President is the head of the military chain of command when Congress activates the power. [n27](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n27) Moreover, peripheral Commander-in-Chief powers are bridled by statutory and treaty restrictions [n28](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n28) because the President "must respect any constitutionally legitimate restraints on the use of force that Congress has enacted." [n29](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n29) However, even if Congress has not activated war powers, the President does possess inherent authority to expeditiously and unilaterally react to defend the nation when confronted with imminent peril. [n30](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n30) Explicating the intention behind granting the President this latitude, Alexander Hamilton explained that "it is impossible to foresee or to define the extent and variety of national exigencies, or the correspondent extent and variety of the means which may be necessary to satisfy them." [n31](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n31) The Framers drew a precise distinction by specifying that the President was empowered "to repel and not to commence war." [n32](http://www.lexisnexis.com/lnacui2api/frame.do?tokenKey=rsh-20.771738.1261791409&target=results_DocumentContent&returnToKey=20_T17974748742&parent=docview&rand=1376677997032&reloadEntirePage=true#n32)

#### **B. Violation – the affirmative does not prohibit the ability of the President to make a military decision in one of the following areas mentioned in the topic – it merely requires a process or disclosure for the President to go through before exercising his commander and chief power**

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### C. Prefer our interpretation

#### Ground – the negative should be able to say Drone Strikes, Cyber ops, troop invasion and indefinite detention good/bad – This is the core negative topic ground – they get to link turn our disad by saying we still allow authority in one of the areas.

#### Limits – they justify any aff that does transparency or requires a process before implementing a particular war power – this allows them to apply a process to any particular subsection…

#### D. Voting Issue – If it were not the affirmative could run the same case year after year or unbeatable truths like racism is wrong.

## 1NC CP

#### The Executive Branch of the United States Federal Government should exercise the power of executive review over the President of the United States’ authority to introduce armed forces into hostilities. The President should determine that the aforementioned legal decisions represents an inherent violation of the Constitution of the United States of America and will suspend enforcement of the decision.

#### Observation One – Topicality – the counterplan does not use the Supreme Court, the resolutionally mandated agent of action.

#### Observation Two – Competition – the counterplan solves the case and avoids all disadvantages to judicial action.

#### Observation Three – Solvency – Executive power allows the President to shape, interpret and make laws that determine the scope of other governmental powers and individual rights

Paulsen 94

(Michael Stokes Paulsen, Assoc Prof of Law at Univ of Minnesota, 1994 Georgetown Law Journal, 83 Geo. L.J. 217, L/N)

If the judiciary is the least dangerous branch, then, by these same criteria, the executive is the most dangerous branch. The executive possesses Force, Will, and "Judgment" -- the power to interpret the law. The President has Force: He has the sole duty and prerogative to direct and control the manner in which the laws are executed (the "executive power") n4 and the power to command the military forces of the nation in case of war, insurrection, or emergency. n5 The President has Will: In the Hamiltonian sense of that term, the President has power to make law; to determine the substance of rules "by which the duties and rights of every citizen are to be  [\*220]  regulated." He participates in the legislative process by making recommendations and presenting messages to Congress, as well as by exercising the formidable negative and agenda-shaping positive power of the veto. n6 In the modern administrative state, he has substantial implicit and/or delegated legislative power to prescribe rules -- laws, really -- in the capacious interstices of broad statutory directives. Perhaps most important of all, the President has, as a logical incident of his textually specified powers, the ancillary power of Judgment: the formidable power to interpret the laws he is charged with executing and (sometimes) that he has had a role in making. The power to interpret law -- the power, in *Marbury v. Madison's* famous words, "to say what the law is" n7 -- is a superpower or, if you prefer, a "meta-power," that effectively determines the construction and scope of all other governmental powers and of individual rights. As Benjamin Hoadley, Bishop of Bangor, astutely observed in 1717, "Whoever hath an absolute authority to interpret any written or spoken laws, it is he who is truly the lawgiver, to all intents and purposes, and not the person who first wrote or spoke them." n8

## 1NC DA

#### The plan’s restrictions straightjacket presidential flexibility – collapses deterrence making preemptive strikes likely.

Zeisberg, ‘4 [Mariah Zeisberg, PhD in Politics from Princeton, Postdoc Research Associate at the Political Theory Project of Brown University; “INTERBRANCH CONFLICT AND CONSTITUTIONAL MAINTENANCE: THE CASE OF WAR POWERS”; June 2004; found in Word document, can be downloaded from [www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc](http://www.brown.edu/Research/ppw/files/Zeisberg%20Ch5.doc)]

The first significant argument of pro-Presidency insularists is that flexibility is a prime value in the conduct of foreign affairs, and especially war. Implicit in this argument is the recognition that the executive is functionally superior to Congress in achieving flexibility and swiftness in war operations, a recognition I share. The Constitution cannot be meant to curtail the very flexibility that may be necessary to preserve the nation; and yet, according to the insularists, any general norm which would include Congress in decision-making about going to war could only undermine that flexibility. Writing on the War Powers Act, Eugene Rostow predicts that it would, “put the Presidency in a straightjacket of a rigid code, and prevent new categories of action from emerging, in response to the necessities of a tense and unstable world.” In fact, Rostow believes, “[t]he centralization of authority in the president is particularly crucial in matters of national defense, war, and foreign policy, where a unitary executive can evaluate threats, consider policy choices, and mobilize national resources with a speed and energy that is far superior to any other branch.” Pro-presidency insularists are fond of quoting Hamilton, who argued that “[o]f all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand.” This need for flexibility, some insularists argue, is especially acute given modern conditions, where devastating wars can develop quickly. Today, “many foreign states have the power to attack U.S. forces - and some even the U.S. mainland - almost instantly,” and in such a world it is impracticable to require the President to seek advance authorization for hostilities. Such a requirement would simply be too risky to U.S. security. We furthermore face a nuclear age, and the system of deterrence that operates to contain that threat requires that a single person be capable of responding to nuclear attack with nuclear weapons immediately. Rostow writes, “the requirement for advance authorization would collapse the system of deterrence, making preemptive strikes by our enemies more likely.” Hence, “modern conditions” require the President to “act quickly, and often alone.” While this does not mean that Congress has no role to play in moments of crisis, it does mean that Congress should understand its role largely in terms of cooperating with the President to support his negotiations and decisions regarding relationships with foreign powers. Rostow writes, “Congress should be able to act effectively both before and after moments of crisis or potential crisis. It may join the President in seeking to deter crisis by publicly defining national policy in advance, through the sanctioning of treaties or other legislative declarations. Equally, Congress may participate formally in policymaking after the event through legislative authorization of sustained combat, either by means of a declaration of war, or through legislative action having more limited legal and political consequences. Either of these devices, or both in combination, should be available in situations where cooperation between the two branches is indicated at many points along an arc ranging from pure diplomacy at one end to a declaration of war at the other.” In other words, for Congress to understand itself as having any justifiable role in challenging executive security determinations, especially at moments of crisis, would be to undermine the strength that the executive requires in order to protect the nation. Conflict in this domain represents political degradation.

#### That would uniquely decimate Obama and the military’s ability to calm alliances and deter enemies ---- makes terrorism and global nuclear war more likely

WAXMAN 2013 - law professor at Columbia Law School, co-chairs the Roger Hertog Program on Law and National Security (Matthew Waxman, “The Constitutional Power to Threaten War,” August 27, 2013, http://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2316777)

As a prescriptive matter, Part II also shows that examination of threatened force and the credibility requirements for its effectiveness calls into question many orthodoxies of the policy advantages and risks attendant to various allocations of legal war powers, including the existing one and proposed reforms.23 Most functional arguments about war powers focus on fighting wars or hostile engagements, but that is not all – or even predominantly – what the United States does with its military power. Much of the time it seeks to avert such clashes while achieving its foreign policy objectives: to bargain, coerce, deter.24 The President’s flexibility to use force in turn affects decision-making about threatening it, with major implications for securing peace or dragging the United States into conflicts. Moreover, constitutional war power allocations affect potential conflicts not only because they may constrain U.S. actions but because they may send signals and shape other states’ (including adversaries’) expectations of U.S. actions.25 That is, most analysis of war-powers law is inward-looking, focused on audiences internal to the U.S. government and polity, but thinking about threatened force prompts us to look outward, at how war-powers law affects external perceptions among adversaries and allies. Here, extant political science and strategic studies offer few clear conclusions, but they point the way toward more sophisticated and realistic policy assessment of legal doctrine and proposed reform. More generally, as explained in Part III, analysis of threatened force and war powers exposes an under-appreciated relationship between constitutional doctrine and grand strategy. Instead of proposing a functionally optimal allocation of legal powers, as legal scholars are often tempted to do, this Article in the end denies the tenability of any such claim. Having identified new spaces of war and peace powers that legal scholars need to take account of in understanding how those powers are really exercised, this Article also highlights the extent to which any normative account of the proper distribution of authority over this area depends on many matters that cannot be predicted in advance or expected to remain constant.26 Instead of proposing a policy-optimal solution, this Article concludes that the allocation of constitutional war powers is – and should be –geopolitically and strategically contingent; the actual and effective balance between presidential and congressional powers over war and peace in practice necessarily depends on fundamental assumptions and shifting policy choices about how best to secure U.S. interests against potential threats.27 I. Constitutional War Powers and Threats of Force Decisions to go to war or to send military forces into hostilities are immensely consequential, so it is no surprise that debates about constitutional war powers occupy so much space. But one of the most common and important ways that the United States uses its military power is by threatening war or force – and the constitutional dimensions of that activity receive almost no scrutiny or even theoretical investigation. A. War Powers Doctrine and Debates The Constitution grants Congress the powers to create military forces and to “declare war,”28 which the Supreme Court early on made clear includes the power to authorize limited uses of force short of full-blown war.29 The Constitution then vests the President with executive power and designates him commander in chief of the armed forces,30 and it has been well-accepted since the Founding that these powers include unilateral authority to repel invasions if the United States is attacked.31 Although there is nearly universal acceptance of these basic starting points, there is little legal agreement about how the Constitution allocates responsibility for the vast bulk of cases in which the United States has actually resorted to force. The United States has declared war or been invaded only a handful of times in its history, but it has used force – sometimes large-scale force – hundreds of other times.32 Views split over questions like when, if ever, the President may use force to deal with aggression against third parties and how much unilateral discretion the President has to use limited force short of full-blown war. For many lawyers and legal scholars, at least one important methodological tool for resolving such questions is to look at historical practice, and especially the extent to which the political branches acquiesced in common practices.33 Interpretation of that historical practice for constitutional purposes again divides legal scholars, but most would agree at least descriptively on some basic parts of that history. In particular, most scholars assess that from the Founding era through World War II, Presidents and Congresses alike recognized through their behavior and statements that except in certain narrow types of contingencies, congressional authorization was required for large-scale military operations against other states and international actors, even as many Presidents pushed and sometimes crossed those boundaries.34 Whatever constitutional constraints on presidential use of force existed prior to World War II, however, most scholars also note that the President asserted much more extensive unilateral powers to use force during and after the Cold War, and many trace the turning point to the 1950 Korean War.35 Congress did not declare war in that instance, nor did it expressly authorize U.S. participation.36 From that point forward, presidents have asserted broad unilateral authority to use force to address threats to U.S. interests, including threats to U.S. allies, and that neither Congress nor courts pushed back much against this expanding power.37 Concerns about expansive presidential war-making authority spiked during the Vietnam War. In the wind-down of that conflict, Congress passed – over President Nixon’s veto – the War Powers Resolution,38 which stated its purpose as to ensure the constitutional Founders’ original vision that the “collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.”39 Since then, presidentialists have argued that the President still retains expansive authority to use force abroad to protect American interests,40 and congressionalists argue that this authority is tightly circumscribed.41 These constitutional debates have continued through the first decade of the 21st century. Constitutional scholars split, for example, over President Obama’s power to participate in coalition operations against Libya without congressional authorization in 2011, especially after the War Powers Resolution’s 60-day clock expired.42 Some argue that President Obama’s use of military force without specific congressional authorization in that case reflects the broad constitutional discretion presidents now have to protect American interests, at least short of full-blown “war”, while others argue that it is the latest in a long record of presidential violations of the Constitution and the War Powers Resolution.43 B. Threats of Force and Constitutional Powers These days it is usually taken for granted that – whether or not he can make war unilaterally – the President is constitutionally empowered to threaten the use of force, implicitly or explicitly, through diplomatic means or shows of force. It is never seriously contested whether the President may declare that United States is contemplating military options in response to a crisis, or whether the President may move substantial U.S. military forces to a crisis region or engage in military exercises there. To take the Libya example just mentioned, is there any constitutional limitation on the President’s authority to move U.S. military forces to the Mediterranean region and prepare them very visibly to strike?44 Or his authority to issue an ultimatum to Libyan leaders that they cease their brutal conduct or else face military action? Would it matter whether such threats were explicit versus implicit, whether they were open and public versus secret, or whether they were just a bluff? If not a constitutional obstacle, could it be argued that the War Powers Resolution’s reporting requirements and limits on operations were triggered by a President’s mere ultimatum or threatening military demonstration, insofar as those moves might constitute a “situation where imminent involvement in hostilities is clearly indicated by the circumstances”? These questions simply are not asked (at least not anymore).45 If anything, most lawyers would probably conclude that the President’s constitutional powers to threaten war are not just expansive but largely beyond Congress’s authority to regulate directly. From a constitutional standpoint, to the extent it is considered at all, the President’s power to threaten force is probably regarded to be at least as broad as his power to use it. One way to look at it is that the power to threaten force is a lesser included element of presidential war powers; the power to threaten to use force is simply a secondary question, the answer to which is bounded by the primary issue of the scope of presidential power to actually use it. If one interprets the President’s defensive war powers very broadly, to include dealing with aggression not only directed against U.S. territories but also against third parties,46 then it might seem easy to conclude that the President can also therefore take steps that stop short of actual armed intervention to deter or prevent such aggression. If, however, one interprets the President’s powers narrowly, for example, to include only limited unilateral authority to repel attacks against U.S. territory,47 then one might expect objections to arguably excessive presidential power to include his unilateral threats of armed intervention. Another way of looking at it is that in many cases, threats of war or force might fall within even quite narrow interpretations of the President’s inherent foreign relations powers to conduct diplomacy or his express commander in chief power to control U.S. military forces – or some combination of the two – depending on how a particular threat is communicated. A President’s verbal warning, ultimatum, or declared intention to use military force, for instance, could be seen as merely exercising his role as the “sole organ” of U.S. foreign diplomacy, conveying externally information about U.S. capabilities and intentions.48 A president’s movement of U.S. troops or warships to a crisis region or elevation of their alert level could be seen as merely exercising his dayto- day tactical control over forces under his command.49 Generally it is not seriously contested whether the exercise of these powers alone could so affect the likelihood of hostilities or war as to intrude on Congress’s powers over war and peace.50 We know from historical examples that such unilateral military moves, even those that are ostensibly pure defensive ones, can provoke wars – take, for example, President Polk’s movement of U.S. forces to the contested border with Mexico in 1846, and the resulting skirmishes that led Congress to declare war.51 Coming at the issue from Congress’s Article I powers rather than the President’s Article II powers, the very phrasing of the power “To declare War” puts most naturally all the emphasis on the present tense of U.S. military action, rather than its potentiality. Even as congressionalists advance interpretations of the clause to include not merely declarative authority but primary decision-making authority as to whether or not to wage war or use force abroad, their modern-day interpretations do not include a power to threaten war (except perhaps through the specific act of declaring it). None seriously argues – at least not any more – that the Declare War Clause precludes presidential threats of war. This was not always the case. During the early period of the Republic, there was a powerful view that beyond outright initiation of armed hostilities or declaration of war, more broadly the President also could not unilaterally take actions (putting aside actual military attacks) that would likely or directly risk war,52 provoke a war with another state,53 or change the condition of affairs or relations with another state along the continuum from peace to war.54 To do so, it was often argued, would usurp Congress’s prerogative to control the nation’s state of peace or war.55 During the Quasi-War with France at the end of the 18th century, for example, some members of Congress questioned whether the President, absent congressional authorization, could take actions that visibly signaled an intention to retaliate against French maritime harassment,56 and even some members of President Adams’ cabinet shared doubts.57 Some questions over the President’s power to threaten force arose (eventually) in relation to the Monroe Doctrine, announced in an 1823 presidential address to Congress and which in effect declared to European powers that the United States would oppose any efforts to colonize or reassert control in the Western Hemisphere.58 “Virtually no one questioned [Monroe’s proclamation] at the time. Yet it posed a constitutional difficulty of the first importance.”59 Of course, Monroe did not actually initiate any military hostilities, but his implied threat – without congressional action – risked provoking rather than deterring European aggression and by putting U.S. prestige and credibility on the line it limited Congress’s practical freedom of action if European powers chose to intervene.60 The United States would have had at the time to rely on British naval power to make good on that tacit threat, though a more assertive role for the President in wielding the potential for war or intervention during this period went hand in hand with a more sustained projection of U.S. power beyond its borders, especially in dealing with dangers emanating from Spanish-held Florida territory.61 Monroe’s successor, John Quincy Adams, faced complaints from opposition members of Congress that Monroe’s proclamation had exceeded his constitutional authority and had usurped Congress’s by committing the United States – even in a non-binding way – to resisting European meddling in the hemisphere.62 The question whether the President could unilaterally send militarily-threatening signals was in some respects a mirror image of the issues raised soon after the Constitution was ratified during the 1793 Neutrality Controversy: could President Washington unilaterally declare the United States to be neutral as to the war among European powers. Washington’s politically controversial proclamation declaring the nation “friendly and impartial” in the conflict between France and Great Britain (along with other European states) famously prompted a back-and-forth contest of public letters by Alexander Hamilton and James Madison, writing pseudonymously as “Pacificus” and “Helvidius”, about whether the President had such unilateral power or whether it belonged to Congress.63 Legal historian David Currie points out the irony that the neutrality proclamation was met with stronger and more immediate constitutional scrutiny and criticism than was Monroe’s threat. After all, Washington’s action accorded with the principle that only Congress, representing popular will, should be able to take the country from the baseline state of peace to war, whereas Monroe’s action seemed (at least superficially) to commit it to a war that Congress had not approved.64 Curiously (though for reasons offered below, perhaps not surprisingly) this issue – whether there are constitutional limits on the President’s power to threaten war – has almost vanished completely from legal discussion, and that evaporation occurred even before the dramatic post-war expansion in asserted presidential power to make war. Just prior to World War II, political scientist and presidential powers theorist Edward Corwin remarked that “[o]f course, it may be argued, and has in fact been argued many times, that the President is under constitutional obligation not to incur the risk of war in the prosecution of a diplomatic policy without first consulting Congress and getting its consent.”65 “Nevertheless,” he continued,66 “the supposed principle is clearly a maxim of policy rather than a generalization from consistent practice.” In his 1945 study World Policing and the Constitution, James Grafton Rogers noted: [E]xamples of demonstrations on land and sea made for a variety of purposes and under Presidents of varied temper and in different political climates will suffice to make the point. The Commander-in-Chief under the Constitution can display our military resources and threaten their use whenever he thinks best. The weakness in the diplomatic weapon is the possibility of dissidence at home which may cast doubt on our serious intent. The danger of the weapon is war.67 At least since then, however, the importance to U.S. foreign policy of threatened force has increased dramatically, while legal questions about it have receded further from discussion. In recent decades a few prominent legal scholars have addressed the President’s power to threaten force, though in only brief terms. Taylor Reveley noted in his volume on war powers the importance of allocating constitutional responsibility not only for the actual use of force but also “[v]erbal or written threats or assurances about the circumstances in which the United States will take military action …, whether delivered by declarations of American policy, through formal agreements with foreign entities, by the demeanor or words of American officials, or by some other sign of national intent.”68 Beyond recognizing the critical importance of threats and other non-military actions in affecting war and peace, however, Reveley made little effort to address the issue in any detail. Among the few legal scholars attempting to define the limiting doctrinal contours of presidentially threatened force, Louis Henkin wrote in his monumental Foreign Affairs and the Constitution that: Unfortunately, the line between war and lesser uses of force is often elusive, sometimes illusory, and the use of force for foreign policy purposes can almost imperceptibly become a national commitment to war. Even when he does not use military force, the President can incite other nations or otherwise plunge or stumble this country into war, or force the hand of Congress to declare or to acquiesce and cooperate in war. As a matter of constitutional doctrine, however, one can declare with confidence that a President begins to exceed his authority if he willfully or recklessly moves the nation towards war…69 The implication seems to be that the President may not unilaterally threaten force in ways that are dramatically escalatory and could likely lead to war, or perhaps that the President may not unilaterally threaten the use of force that he does not have the authority to initiate unilaterally.70 Jefferson Powell, who generally takes a more expansive view than Henkin of the President’s war powers, argues by contrast that “[t]he ability to warn of, or threaten, the use of military force is an ordinary and essential element in the toolbox of that branch of government empowered to formulate and implement foreign policy.”71 For Powell, the President is constantly taking actions as part of everyday international relations that carry a risk of military escalation, and these are well-accepted as part of the President’s broader authority to manage, if not set, foreign policy. Such brief mentions are in recent times among the rare exceptions to otherwise barren constitutional discussion of presidential powers to threaten force. That the President’s authority to threaten force is so well-accepted these days as to seem self-evident is not just an academic phenomenon. It is also reflected in the legal debates among and inside all three branches of government. In 1989, Michael Reisman observed: Military maneuvers designed to convey commitment to allies or contingent threats to adversaries … are matters of presidential competence. Congress does not appear to view as within its bailiwick many low-profile contemporaneous expressions of gunboat diplomacy, i.e., the physical interposition of some U.S. war-making capacity as communication to an adversary of United States’ intentions and capacities to oppose it.72 This was and remains a correct description but understates the pattern of practice, insofar as even major and high-profile expressions of coercive diplomacy are regarded among all three branches of government as within presidential competence. In Dellums v. Bush – perhaps the most assertive judicial scrutiny of presidential power to use large-scale force abroad since the end of the Cold War – the district court dismissed on ripeness grounds congressmembers’ suit challenging President George H. W. Bush’s intended military operations against Iraq in 1991 and seeking to prevent him from initiating an offensive attack against Iraq without first securing explicit congressional authorization for such action.73 That at the time of the suit the President had openly threatened war – through ultimatums and deployment of several hundred thousand U.S. troops – but had not yet “committed to a definitive course of action” to carry out the threat meant there was no justiciable legal issue, held the court.74 The President’s threat of war did not seem to give the district court legal pause at all; quite the contrary, the mere threat of war was treated by the court as a non-issue entirely.75 There are several reasons why constitutional questions about threatened force have dropped out of legal discussions. First, the more politically salient debate about the President’s unilateral power to use force has probably swallowed up this seemingly secondary issue. As explained below, it is a mistake to view threats as secondary in importance to uses of force, but they do not command the same political attention and their impacts are harder to measure.76 Second, the expansion of American power after World War II, combined with the growth of peacetime military forces and a set of defense alliance commitments (developments that are elaborated below) make at least some threat of force much more common – in the case of defensive alliances and some deterrent policies, virtually constant – and difficult to distinguish from other forms of everyday diplomacy and security policy.77 Besides, for political and diplomatic reasons, presidents rarely threaten war or intervention without at least a little deliberate ambiguity. As historian Marc Trachtenberg puts it: “It often makes sense … to muddy the waters a bit and avoid direct threats.”78 Any legal lines one might try to draw (recall early attempts to restrict the President’s unilateral authority to alter the state of affairs along the peacetime-wartime continuum) have become blurrier and blurrier. In sum, if the constitutional power to threaten war ever posed a serious legal controversy, it does so no more. As the following section explains, however, threats of war and armed force have during most of our history become a greater and greater part of American grand strategy, defined here as long-term policies for using the country’s military and non-military power to achieve national goals. The prominent role of threatened force in U.S. strategy has become the focus of political scientists and other students of security strategy, crises, and responses – but constitutional study has not adjusted accordingly.79 C. Threats of Force and U.S. Grand Strategy While the Korean and Vietnam Wars were generating intense study among lawyers and legal scholars about constitutional authority to wage military actions abroad, during that same period many political scientists and strategists – economists, historians, statesmen, and others who studied international conflict – turned their focus to the role of threatened force as an instrument of foreign policy. The United States was building and sustaining a massive war-fighting apparatus, but its security policy was not oriented primarily around waging or winning wars but around deterring them and using the threat of war – including demonstrative military actions – to advance U.S. security interests. It was the potential of U.S. military might, not its direct application or engagement with the enemy, that would do much of the heavy lifting. U.S. military power would be used to deter the Soviet Union and other hostile states from taking aggressive action. It would be unsheathed to prompt them to back down over disputes. It would reassure allies that they could depend on U.S. help in defending themselves. All this required that U.S. willingness to go to war be credible in the eyes of adversaries and allies alike. Much of the early Cold War study of threatened force concerned nuclear strategy, and especially deterrence or escalation of nuclear war. Works by Albert Wohlstetter, Herman Kahn, and others not only studied but shaped the strategy of nuclear threats, as well as how to use limited applications of force or threats of force to pursue strategic interests in remote parts of the globe without sparking massive conflagrations.80 As the strategic analyst Bernard Brodie wrote in 1946, “Thus far the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.”81 Toward that end, U.S. government security and defense planners during this time focused heavily on preserving and improving the credibility of U.S. military threats – while the Soviet Union was doing likewise.82 The Truman administration developed a militarized version of containment strategy against the Soviet empire, emphasizing that stronger military capabilities were necessary to prevent the Soviets from seizing the initiative and to resist its aggressive probes: “it is clear,” according to NSC-68, the government document which encapsulated that strategy, “that a substantial and rapid building up of strength in the free world is necessary to support a firm policy intended to check and to roll back the Kremlin's drive for world domination.”83 The Eisenhower administration’s “New Look” policy and doctrine of “massive retaliation” emphasized making Western collective security both more effective and less costly by placing greater reliance on deterrent threats – including threatened escalation to general or nuclear war. As his Secretary of State John Foster Dulles explained, “[t]here is no local defense which alone will contain the mighty landpower of the Communist world. Local defenses must be reinforced by the further deterrent of massive retaliatory power.”84 As described in Evan Thomas’s recent book, Ike’s Bluff, Eisenhower managed to convince Soviet leaders that he was ready to use nuclear weapons to check their advance in Europe and elsewhere. In part due to concerns that threats of massive retaliation might be insufficiently credible in Soviet eyes (especially with respect to U.S. interests perceived as peripheral), the Kennedy administration in 1961 shifted toward a strategy of “flexible response,” which relied on the development of a wider spectrum of military options that could quickly and efficiently deliver varying degrees of force in response to foreign aggression.85 Throughout these periods, the President often resorted to discrete, limited uses of force to demonstrate U.S. willingness to escalate. For example, in 1961 the Kennedy administration (mostly successfully in the short-run) deployed intervention-ready military force immediately off the coast of the Dominican Republic to compel its government's ouster,86 and that same year it used military exercises and shows of force in ending the Berlin crisis;87 in 1964, the Johnson administration unsuccessfully used air strikes on North Vietnamese targets following the Tonkin Gulf incidents, failing to deter what it viewed as further North Vietnamese aggression.88 The point here is not the shifting details of U.S. strategy after World War II – during this era of dramatic expansion in asserted presidential war powers – but the central role of credible threats of war in it, as well as the interrelationship of plans for using force and credible threats to do so. Also during this period, the United States abandoned its long-standing aversion to “entangling alliances,”89 and committed to a network of mutual defense treaties with dependent allies. Besides the global collective security arrangement enshrined in the UN Charter, the United States committed soon after World War II to mutual defense pacts with, for example, groups of states in Western Europe (the North Atlantic Treaty Organization)90 and Asia (the Southeast Asia Treaty Organization,91 as well as a bilateral defense agreement with the Republic of Korea,92 Japan,93 and the Republic of China,94 among others). These alliance commitments were part of a U.S. effort to “extend” deterrence of Communist bloc aggression far beyond its own borders.95 “Extended deterrence” was also critical to reassuring these U.S. allies that their security needs would be met, in some instances to head off their own dangerous rearmament.96 Among the leading academic works on strategy of the 1960s and 70s were those of Thomas Schelling, who developed the theoretical structure of coercion theory, arguing that rational states routinely use the threat of military force – the manipulation of an adversary’s perceptions of future risks and costs with military threats – as a significant component of their diplomacy.97 Schelling distinguished between deterrence (the use of threats to dissuade an adversary from taking undesired action) and compellence (the use of threats to persuade an adversary to behave a certain way), and he distinguished both forms of coercion from brute force: “[B]rute force succeeds when it is used, whereas the power to hurt is most successful when held in reserve. It is the threat of damage to come that can make someone yield of comply. It is latent violence that can influence someone’s choice.”98 Alexander George, David Hall, and William Simons then led the way in taking a more empirical approach, reviewing case studies to draw insights about the success and failure of U.S. coercive threats, analyzing contextual variables and their effects on parties’ reactions to threats during crises. Among their goals was to generate lessons informed by history for successful strategies that combine diplomatic efforts with threats or demonstrations of force, recognizing that the United States was relying heavily on threatened force in addressing security crises. Coercive diplomacy – if successful – offered ways to do so with minimal actual application of military force.99 One of the most influential studies that followed was Force Without War: U.S. Armed Forces as a Political Instrument, a Brookings Institution study led by Barry Blechman and Stephen Kaplan and published in 1977.100 They studied “political uses of force”, defined as actions by U.S. military forces “as part of a deliberate attempt by the national authorities to influence, or to be prepared to influence, specific behavior of individuals in another nation without engaging in a continued contest of violence.”101 Blechman and Kaplan’s work, including their large data set and collected case studies, was important for showing the many ways that threatened force could support U.S. security policy. Besides deterrence and compellence, threats of force were used to assure allies (thereby, for example, avoiding their own drive toward militarization of policies or crises) and to induce third parties to behave certain ways (such as contributing to diplomatic resolution of crises). The record of success in relying on threatened force has been quite mixed, they showed. Blechman and Kaplan’s work, and that of others who built upon it through the end of the Cold War and the period that has followed,102 helped understand the factors that correlated with successful threats or demonstrations of force without resort or escalation to war, especially the importance of credible signals.103 After the Cold War, the United States continued to rely on coercive force – threatened force to deter or compel behavior by other actors – as a central pillar of its grand strategy. During the 1990s, the United States wielded coercive power with varied results against rogue actors in many cases that, without the overlay of superpower enmities, were considered secondary or peripheral, not vital, interests: Iraq, Somalia, Haiti, Bosnia, and elsewhere. For analysts of U.S. national security policy, a major puzzle was reconciling the fact that the United States possessed overwhelming military superiority in raw terms over any rivals with its difficult time during this era in compelling changes in their behavior.104 As Daniel Byman and I wrote about that decade in our study of threats of force and American foreign policy: U.S. conventional and nuclear forces dwarf those of any adversaries, and the U.S. economy remains the largest and most robust in the world. Because of these overwhelming advantages, the United States can threaten any conceivable adversary with little danger of a major defeat or even significant retaliation. Yet coercion remains difficult. Despite the United States’ lopsided edge in raw strength, regional foes persist in defying the threats and ultimatums brought by the United States and its allies. In confrontations with Somali militants, Serb nationalists, and an Iraqi dictator, the U.S. and allied record or coercion has been mixed over recent years…. Despite its mixed record of success, however, coercion will remain a critical element of U.S. foreign policy.105 One important factor that seemed to undermine the effectiveness of U.S. coercive threats during this period was that many adversaries perceived the United States as still afflicted with “Vietnam Syndrome,” unwilling to make good on its military threats and see military operations through.106 Since the turn of the 21st Century, major U.S. security challenges have included non-state terrorist threats, the proliferation of nuclear and other weapons of mass destruction (WMD), and rapidly changing power balances in East Asia, and the United States has accordingly been reorienting but retaining its strategic reliance on threatened force. The Bush Administration’s “preemption doctrine” was premised on the idea that some dangerous actors – including terrorist organizations and some states seeking WMD arsenals – are undeterrable, so the United States might have to strike them first rather than waiting to be struck.107 On one hand, this was a move away from reliance on threatened force: “[t]he inability to deter a potential attacker, the immediacy of today’s threats, and the magnitude of potential harm that could be caused by our adversaries’ choice of weapons, do not permit” a reactive posture.108 Yet the very enunciation of such a policy – that “[t]o forestall or prevent such hostile acts by our adversaries, the United States will, if necessary, act preemptively”109 – was intended to persuade those adversaries to alter their policies that the United States regarded as destabilizing and threatening. Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.110 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.111 D. The Disconnect Between Constitutional Discourse and Strategy There is a major disconnect between the decades of work by strategists and many political scientists on American security policy and practice since the Second World War and legal analysis and scholarship of constitutional war powers during that period. Lawyers and strategists have been relying on not only distinct languages but distinct logics of military force – in short, when it comes to using U.S. military power, lawyers think in terms of “going to war” while strategists focus on potential war and processes leading to it. These framings manifest in differing theoretical starting points for considering how exercises of U.S. military might affect war and peace, and they skew the empirical insights and normative prescriptions about Presidential power often drawn from their analyses. 1. Lawyers’ Misframing Lawyers’ focus on actual uses of force – especially engagements with enemy military forces – as constitutionally salient, rather than including threats of force in their understanding of modern presidential powers tilts analysis toward a one-dimensional strategic logic, rather than a more complex and multi-dimensional and dynamic logic in which the credible will to use force is as important as the capacity to do so. As discussed above, early American constitutional thinkers and practitioners generally wanted to slow down with institutional checks decisions to go to war, because they thought that would make war less likely. “To invoke a more contemporary image,” wrote John Hart Ely of their vision, “it takes more than one key to launch a missile: It should take quite a number to start a war.”112 They also viewed the exercise of military power as generally a ratchet of hostilities, whereby as the intensity of authorized or deployed force increased, so generally did the state of hostilities between the United States and other parties move along a continuum from peace to war.113 Echoes of this logic still reverberate in modern congressionalist legal scholarship: the more flexibly the President can use military force, the more likely it is that the United States will find itself in wars; better, therefore, to clog decisions to make war with legislative checks.114 Modern presidentialist legal scholars usually respond that rapid action is a virtue, not a vice, in exercising military force.115 Especially as a superpower with global interests and facing global threats, presidential discretion to take rapid military action – endowed with what Alexander Hamilton called “[d]ecision, activity, secrecy, and dispatch”116 – best protects American interests. In either case the emphasis tends overwhelmingly to be placed on actual military engagements with adversaries. Strategists and many political scientists, by contrast, view some of the most significant use of military power as starting well before armed forces clash – and including important cases in which they never actually do. Coercive diplomacy and strategies of threatened force, they recognize, often involve a set of moves and countermoves by opposing sides and third parties before or even without the violent engagement of opposing forces. It is often the parties’ perceptions of anticipated actions and costs, not the actual carrying through of violence, that have the greatest impact on the course of events and resolution or escalation of crises. Instead of a ratchet of escalating hostilities, the flexing of military muscle can increase as well as decrease actual hostilities, inflame as well as stabilize relations with rivals or enemies. Moreover, those effects are determined not just by U.S. moves but by the responses of other parties to them – or even to anticipated U.S. moves and countermoves.117 Indeed, as Schelling observed, strategies of brinkmanship sometimes operate by “the deliberate creation of a recognizable risk of war, a risk that one does not completely control.”118 This insight – that effective strategies of threatened force involve not only great uncertainty about the adversary’s responses but also sometimes involve intentionally creating risk of inadvertent escalation119 – poses a difficult challenge for any effort to cabin legally the President’s power to threaten force in terms of likelihood of war or some due standard of care.120 2. Lawyers’ Selection Problems Methodologically, a lawyerly focus on actual uses of force – a list of which would then commonly be used to consider which ones were or were not authorized by Congress – vastly undercounts the instances in which presidents wield U.S. military might. It is already recognized by some legal scholars that studying actual uses of force risks ignoring instances in which President contemplated force but refrained from using it, whether because of political, congressional, or other constraints.121 The point here is a different one: that some of the most significant (and, in many instances, successful) presidential decisions to threaten force do not show up in legal studies of presidential war powers that consider actual deployment or engagement of U.S. military forces as the relevant data set. Moreover, some actual uses of force, whether authorized by Congress or not, were preceded by threats of force; in some cases these threats may have failed on their own to resolve the crisis, and in other cases they may have precipitated escalation. To the extent that lawyers are interested in understanding from historical practice what war powers the political branches thought they had and how well that understanding worked, they are excluding important cases. Consider, as an illustration of this difference in methodological starting point, that for the period of 1946-1975 (during which the exercise of unilateral Presidential war powers had its most rapid expansion), the Congressional Research Service compilation of instances in which the United States has utilized military forces abroad in situations of military conflict or potential conflict to protect U.S. citizens or promote U.S. interests – which is often relied upon by legal scholars studying war powers – lists only about two dozen incidents.122 For the same time period, the Blechman and Kaplan study of political uses of force (usually threats) – which is often relied upon by political scientists studying U.S. security strategy – includes dozens more data-point incidents, because they divide up many military crises into several discrete policy decisions, because many crises were resolved with threat-backed diplomacy, and because many uses of force were preceded by overt or implicit threats of force.123 Among the most significant incidents studied by Blechman and Kaplan but not included in the Congressional Research Service compilation at all are the 1958-59 and 1961 crises over Berlin and the 1973 Middle East War, during which U.S. Presidents signaled threats of superpower war, and in the latter case signaled particularly a willingness to resort to nuclear weapons.124 Because the presidents did not in the end carry out these threats, these cases lack the sort of authoritative legal justifications or reactions that accompany actual uses of force. It is therefore difficult to assess how the executive branch and congress understood the scope of the President’s war powers in these cases, but historical inquiry would probably show the executive branch’s interpretation to be very broad, even to include full-scale war and even where the main U.S. interest at stake was the very credibility of U.S. defense commitments undergirding its grand strategy, not simply the interests specific to divided Germany and the Middle East region. Of course, one might argue that because the threatened military actions were never carried out in these cases, it is impossible to know if the President would have sought congressional authorization or how Congress would have reacted to the use of force; nonetheless, it is easy to see that in crises like these a threat by the President to use force, having put U.S. credibility on the line in addition to whatever other foreign policy stakes were at issues, would have put Congress in a bind. 3. Lawyers’ Mis-Assessment Empirically, analysis of and insights gleaned from any particular incident – which might then be used to evaluate the functional merits of presidential powers – looks very different if one focuses predominantly on the actual use of force instead of considering also the role of threatened force. Take for example, the Cuban Missile Crisis – perhaps the Cold War’s most dangerous event. To the rare extent that they consider domestic legal issues of this crisis at all, lawyers interested in the constitutionality of President Kennedy’s actions generally ask only whether he was empowered to initiate the naval quarantine of Cuba, because that is the concrete military action Kennedy took that was readily observable and that resulted in actual engagement with Soviet forces or vessels – as it happens, very minimal engagement.125 To strategists who study the crisis, however, the naval quarantine is not in itself the key presidential action; after all, as Kennedy and his advisers realized, a quarantine alone could not remove the missiles that were already in Cuba. The most consequential presidential actions were threats of military or even nuclear escalation, signaled through various means including putting U.S. strategic bombers on highest alert.126 The quarantine itself was significant not for its direct military effects but because of its communicative impact in showing U.S. resolve. If one is focused, as lawyers often are, on presidential military action that actually engaged the enemy in combat or nearly did, it is easy to dismiss this case as not very constitutionally significant. If one focuses on it, as strategists and political scientists often do, on nuclear brinkmanship, it is arguably the most significant historical exercise of unilateral presidential powers to affect war and peace.127 Considering again the 1991 Gulf War, most legal scholars would dismiss this instance as constitutionally a pretty uninteresting military conflict: the President claimed unilateral authority to use force, but he eventually sought and obtained congressional authorization for what was ultimately – at least in the short-run – a quite successful war. For the most part this case is therefore neither celebrated nor decried much by either side of legal war powers debates,128 though some congressionalist scholars highlight the correlation of congressional authorization for this war and a successful outcome.129 Political scientists look at the case differently, though. They often study this event not as a successful war but as failed coercive diplomacy, in that the United States first threatened war through a set of dramatically escalating steps that ultimately failed to persuade Saddam Hussein to withdraw from Kuwait.130 Some political scientists even see U.S. legal debate about military actions as an important part of this story, assessing that adversaries pay attention to congressional arguments and moves in evaluating U.S. resolve (an issue taken up in greater detail below) and that congressional opposition to Bush’s initial unilateralism in this case undermined the credibility of U.S. threats.131 Whether one sees the Gulf War as a case of (successful) war, as lawyers usually do, or (unsuccessful) threatened war, as political scientists usually do, colors how one evaluates the outcome and the credit one might attach to some factors such as vocal congressional opposition to initially-unilateral presidential moves. Notice also that legal analysis of Presidential authority to use force is sometimes thought to turn partly on the U.S. security interests at stake, as though those interests are purely contextual and exogenous to U.S. decision-making and grand strategy. In justifying President Obama’s 2011 use of force against the Libyan government, for example, the Justice Department’s Office of Legal Counsel concluded that the President had such legal authority “because he could reasonably determine that such use of force was in the national interest,” and it then went on to detail the U.S. security and foreign policy interests.132 The interests at stake in crises like these, however, are altered dramatically if the President threatens force: doing so puts the credibility of U.S. threats at stake, which is important not only with respect to resolving the crisis at hand but with respect to other potential adversaries watching U.S. actions.133 The President’s power to threaten force means that he may unilaterally alter the costs and benefits of actually using force through his prior actions.134 The U.S. security interests in carrying through on threats are partly endogenous to the strategy embarked upon to address crises (consider, for example, that once President George H.W. Bush placed hundred of thousands of U.S. troops in the Persian Gulf region and issued an ultimatum to Saddam Hussein in 1990, the credibility of U.S. threats and assurances to regional allies were put on the line).135 Moreover, interests at stake in any one crisis cannot simply be disaggregated from broader U.S. grand strategy: if the United States generally relies heavily on threats of force to shape the behavior of other actors, then its demonstrated willingness or unwillingness to carry out a threat and the outcomes of that action affect its credibility in the eyes of other adversaries and allies, too.136 It is remarkable, though in the end not surprising, that the executive branch does not generally cite these credibility interests in justifying its unilateral uses of force. It does cite when relevant the U.S. interest in sustaining the credibility of its formal alliance commitments or U.N. Security Council resolutions, as reasons supporting the President’s constitutional authority to use force.137 The executive branch generally refrains from citing the similar interests in sustaining the credibility of the President’s own threats of force, however, probably in part because doing so would so nakedly expose the degree to which the President’s prior unilateral strategic decisions would tie Congress’s hands on the matter. \* \* \* In sum, lawyers’ focus on actual uses of force – usually in terms of armed clashes with an enemy or the placement of troops into hostile environments – does not account for much vaster ways that President’s wield U.S. military power and it skews the claims legal scholars make about the allocation of war powers between the political branches. A more complete account of constitutional war powers should recognize the significant role of threatened force in American foreign policy. II. Democratic Checks on Threatened Force The previous Parts of this Article showed that, especially since the end of World War II, the United States has relied heavily on strategies of threatened force in wielding its military might – for which credible signals are a necessary element – and that the President is not very constrained legally in any formal sense in threatening war. Drawing on recent political science scholarship, this Part takes some of the major questions often asked by students of constitutional war powers with respect to the actual use of force and reframes them in terms of threatened force. First, as a descriptive matter, in the absence of formal legal checks on the President’s power to threaten war, is the President nevertheless informally but significantly constrained by democratic institutions and processes, and what role does Congress play in that constraint? Second, as a normative matter, what are the strategic merits and drawbacks of this arrangement of democratic institutions and constraints with regard to strategies of threatened force? Third, as a prescriptive matter, although it is not really plausible that Congress or courts would ever erect direct legal barriers to the President’s power to threaten war, how might legal reform proposals to more strongly and formally constrain the President’s power to use force indirectly impact his power to threaten it effectively? For reasons discussed below, I do not consider whether Congress could legislatively restrict directly the President’s power to threaten force or war; in short, I set that issue aside because assuming that were constitutionally permissible, even ardent congressionalists have exhibited no interest in doing so, and instead have focused on legally controlling the actual use of force. Political science insights that bear on these questions emerge from several directions. One is from studies of Congress’ influence on use of force decisions, which usually assume that Congress’s formal legislative powers play only a limited role in this area, and the effects of this influence on presidential decision-making about threatened force. Another is international relations literature on international bargaining138 as well as literature on the theory of democratic peace, the notion that democracies rarely, if ever, go to war with one another.139 In attempting to explain the near-absence of military conflicts between democracies, political scientists have examined how particular features of democratic governments – electoral accountability, the institutionalized mobilization of political opponents, and the diffusion of decision-making authority regarding the use of force among executive and legislative branches – affect decision-making about war.140 These and other studies, in turn, have led some political scientists (especially those with a rational choice theory orientation) to focus on how those features affect the credibility of signals about force that governments send to adversaries in crises.141 My purpose in addressing these questions is to begin painting a more complete and detailed picture of the way war powers operate, or could operate, than one sees when looking only at actual wars and use of force. This is not intended to be a comprehensive account but an effort to synthesize some strands of scholarship from other fields regarding threatened force to inform legal discourse about how war powers function in practice and the strategic implications of reform. The answers to these questions also bear on raging debates among legal scholars on the nature of American executive power and its constraint by law. Initially they seem to support the views of those legal scholars who have long believed that in practice law no longer seriously binds the President with respect to war-making.142 That view has been taken even further recently by Eric Posner and Adrian Vermeule, who argue that “[l]aw does little constraint the modern executive” at all, but also observe that “politics and public opinion” operate effectively to cabin executive powers.143 The arguments offered here, however, do more to support the position of those legal scholars who describe a more complex relationship between law and politics, including that law is constitutive of the processes of political struggle.144 That law helps constitute the processes of political struggles is true of any area of public policy, though, and what is special here is the added importance of foreign audiences – including adversaries and allies, alike – observing and reacting to those politics, too. Democratic Constraints on the Power to the Threaten Force Whereas most lawyers usually begin their analysis of the President’s and Congress’s war powers by focusing on their formal legal authorities, political scientists usually take for granted these days that the President is – in practice – the dominant branch with respect to military crises and that Congress wields its formal legislative powers in this area rarely or in only very limited ways. A major school of thought, however, is that congressional members nevertheless wield significant influence over decisions about force, and that this influence extends to threatened force, so that Presidents generally refrain from threats that would provoke strong congressional opposition. Even without any serious prospect for legislatively blocking the President’s threatened actions, Congress under certain conditions can loom large enough to force Presidents to adjust their policies; even when it cannot, congressional members can oblige the President expend lots of political capital. As Jon Pevehouse and William Howell explain: When members of Congress vocally oppose a use of force, they undermine the president’s ability to convince foreign states that he will see a fight through to the end. Sensing hesitation on the part of the United States, allies may be reluctant to contribute to a military campaign, and adversaries are likely to fight harder and longer when conflict erupts— thereby raising the costs of the military campaign, decreasing the president’s ability to negotiate a satisfactory resolution, and increasing the probability that American lives are lost along the way. Facing a limited band of allies willing to participate in a military venture and an enemy emboldened by domestic critics, presidents may choose to curtail, and even abandon, those military operations that do not involve vital strategic interests. 145 This statement also highlights the important point, alluded to earlier, that force and threatened force are not neatly separable categories. Often limited uses of force are intended as signals of resolve to escalate, and most conflicts involve bargaining in which the threat of future violence – rather than what Schelling calls “brute force”146 – is used to try to extract concessions. The formal participation of political opponents in legislative bodies provides them with a forum for registering dissent to presidential policies of force through such mechanisms floor statements, committee oversight hearings, resolution votes, and funding decisions.147 These official actions prevent the President “from monopolizing the nation’s political discourse” on decisions regarding military actions can thereby make it difficult for the President to depart too far from congressional preferences.148 Members of the political opposition in Congress also have access to resources for gathering policy relevant information from the government that informs their policy preferences. Their active participation in specialized legislative committees similarly gives opponent party members access to fact-finding resources and forums for registering informed dissent from decisions within the committee’s purview.149 As a result, legislative institutions within democracies can enable political opponents to have a more immediate and informed impact on executive’s decisions regarding force than can opponents among the general public. Moreover, studies suggest that Congress can actively shape media coverage and public support for a president’s foreign policy engagements.150 In short, these findings among political scientists suggest that, even without having to pass legislation or formally approve of actions, Congress often operates as an important check on threatened force by providing the president’s political opponents with a forum for registering dissent from the executive’s decisions regarding force in ways that attach domestic political costs to contemplated military actions or even the threats to use force. Under this logic, Presidents, anticipating dissent, will be more selective in issuing¶ threats in the first place, making only those commitments that would not incite¶ widespread political opposition should the threat be carried through.151 Political¶ opponents within a legislature also have few electoral incentives to collude in an¶ executive’s bluff, and they are capable of expressing opposition to a threatened use of¶ force in ways that could expose the bluff to a threatened adversary.152 This again narrows¶ the President’s range of viable policy options for brandishing military force. Counter-intuitively, given the President’s seemingly unlimited and unchallenged¶ constitutional power to threaten war, it may in some cases be easier for members of¶ Congress to influence presidential decisions to threaten military action than presidential¶ war decisions once U.S. forces are already engaged in hostilities. It is widely believed¶ that once U.S. armed forces are fighting, congress members’ hands are often tied: policy¶ opposition at that stage risks being portrayed as undermining our troops in the field.153¶ Perhaps, it could be argued, the President takes this phenomenon into account and¶ therefore discounts political opposition to threatened force; he can assume that such¶ opposition will dissipate if he carries it through. Even if that is true, before that point¶ occurs, however, members of Congress may have communicated messages domestically¶ and communicated signals abroad that the President will find difficult to counter.154 The bottom line is that a body of recent political science, while confirming the¶ President’s dominant position in setting policy in this area, also reveals that policymaking¶ with respect to threats of force is significantly shaped by domestic politics and¶ that Congress is institutionally positioned to play a powerful role in influencing those¶ politics, even without exercising its formal legislative powers. Given the centrality of¶ threatened force to U.S. foreign policy strategy and security crises, this suggests that the¶ practical war powers situation is not so imbalanced toward the President as many assume. B. Democratic Institutions and the Credibility of Threats A central question among constitutional war powers scholars is whether robust¶ checks – especially congressional ones – on presidential use of force lead to “sound”¶ policy decision-making. Congressionalists typically argue that legislative control over¶ war decisions promotes more thorough deliberation, including more accurate weighing of¶ consequences and gauging of political support of military action.155 Presidentialists¶ usually counter that the executive branch has better information and therefore better¶ ability to discern the dangers of action or inaction, and that quick and decisive military¶ moves are often required to deal with security crises.156 If we are interested in these sorts of functional arguments, then reframing the¶ inquiry to include threatened force prompts critical questions whether such checks also¶ contribute to or detract from effective deterrence and coercive diplomacy and therefore¶ positively or negatively affect the likelihood of achieving aims without resort to war.¶ Here, recent political science provides some reason for optimism, though the scholarship¶ in this area is neither yet well developed nor conclusive. To be sure, “soundness” of policy with respect to force is heavily laden with¶ normative assumptions about war and the appropriate role for the United States in the¶ broader international security system, so it is difficult to assess the merits and¶ disadvantages of constitutional allocations in the abstract. That said, whatever their¶ specific assumptions about appropriate uses of force in mind, constitutional war powers¶ scholars usually evaluate the policy advantages and dangers of decision-making¶ allocations narrowly in terms of the costs and outcomes of actual military engagements¶ with adversaries. The importance of credibility to strategies of threatened force adds important new¶ dimensions to this debate. On the one hand, one might intuitively expect that robust democratic checks would generally be ill-suited for coercive threats and negotiations –¶ that institutional centralization and secrecy of decision-making might better equip nondemocracies¶ to wield threats of force. As Quincy Wright speculated in 1944, autocracies¶ “can use war efficiently and threats of war even more efficiently” than democracies,157¶ especially the American democracy in which vocal public and congressional opposition¶ may undermine threats.158 Moreover, proponents of democratic checks on war powers¶ usually assume that careful deliberation is a virtue in preventing unnecessary wars, but¶ strategists of deterrence and coercion observe that perceived irrationality is sometimes¶ important in conveying threats: “don’t test me, because I might just be crazy enough to¶ do it!”159 On the other hand, some political scientists have recently called into question this¶ view and concluded that the institutionalization of political contestation and some¶ diffusion of decision-making power in democracies of the kind described in the previous¶ section make threats to use force rare but especially credible and effective in resolving¶ international crises without actual resort to armed conflict. In other words, recent¶ arguments in effect turn some old claims about the strategic disabilities of democracies¶ on their heads: whereas it used to be generally thought that democracies were ineffective¶ in wielding threats because they are poor at keeping secrets and their decision-making is¶ constrained by internal political pressures, a current wave of political science accepts this¶ basic description but argues that these democratic features are really strategic virtues.160 Rationalist models of crisis bargaining between states assume that because war is¶ risky and costly, states will be better off if they can resolve their disputes through¶ bargaining rather than by enduring the costs and uncertainties of armed conflict.161¶ Effective bargaining during such disputes – that which resolves the crisis without a resort¶ to force – depends largely on states’ perceptions of their adversary’s capacity to wage an¶ effective military campaign and its willingness to resort to force to obtain a favorable¶ outcome. A state targeted with a threat of force, for example, will be less willing to resist¶ the adversary’s demands if it believes that the adversary intends to wage and is capable of¶ waging an effective military campaign to achieve its ends. In other words, if a state¶ perceives that the threat from the adversary is credible, that state has less incentive to¶ resist such demands if doing so will escalate into armed conflict. The accuracy of such perceptions, however, is often compromised by¶ informational asymmetries that arise from private information about an adversary’s¶ relative military capabilities and resolve that prevents other states from correctly¶ assessing another states’ intentions, as well as by the incentives states have to¶ misrepresent their willingness to fight – that is, to bluff.162 Informational asymmetries¶ increase the potential for misperception and thereby make war more likely; war,¶ consequentially, can be thought of in these cases as a “bargaining failure.”163 Some political scientists have argued in recent decades – contrary to previously common wisdom – that features and constraints of democracies make them better suited than non-democracies to credibly signal their resolve when they threaten force. To bolster their bargaining position, states will seek to generate credible signals of their resolve by taking actions that can enhance the credibility of such threats, such as mobilizing military forces or making “hand-tying” commitments from which leaders cannot back down without suffering considerable political costs domestically.164 These domestic audience costs, according to some political scientists, are especially high for leaders in democratic states, where they may bear these costs at the polls.165 Given the potentially high domestic political and electoral repercussions democratic leaders face from backing down from a public threat, they have considerable incentives to refrain from bluffing. An adversary that understands these political vulnerabilities is thereby more likely to perceive the threats a democratic leader does issue as highly credible, in turn making it more likely that the adversary will yield.166 Other scholars have recently pointed to the special role of legislative bodies in signaling with regard to threatened force. This is especially interesting from the perspective of constitutional powers debates, because it posits a distinct role for Congress – and, again, one that does not necessarily rely on Congress’s ability to pass binding legislation that formally confines the President. Kenneth Schultz, for instance, argues that the open nature of competition within democratic societies ensures that the interplay of opposing parties in legislative bodies over the use of force is observable not just to their domestic publics but to foreign actors; this inherent transparency within democracies – magnified by legislative processes – provides more information to adversaries regarding the unity of domestic opponents around a government’s military and foreign policy decisions.167 Political opposition parties can undermine the credibility of some threats by the President to use force if they publicly voice their opposition in committee hearings, public statements, or through other institutional mechanisms. Furthermore, legislative processes – such as debates and hearings – make it difficult to conceal or misrepresent preferences about war and peace. Faced with such institutional constraints, Presidents will incline to be more selective about making such threats and avoid being undermined in that way.168 This restraining effect on the ability of governments to issue threats simultaneously makes those threats that the government issues more credible, if an observer assumes that the President would not be issuing it if he anticipated strong political opposition. Especially when members of the opposition party publicly support an executive’s threat to use force during a crisis, their visible support lends additional credibility to the government’s threat by demonstrating that political conditions domestically favor the use of force should it be necessary.169 In some cases, Congress may communicate greater willingness than the president to use force, for instance through non-binding resolutions.170 Such powerful signals of resolve should in theory make adversaries more likely to back down. The credibility-enhancing effects of legislative constraints on threats are subject to dispute. Some studies question the assumptions underpinning theories of audience costs – specifically the idea that democratic leaders suffer domestic political costs to failing to make good on their threats, and therefore that their threats are especially credible171 – and others question whether the empirical data supports claims that democracies have credibility advantages in making threats.172 Other scholars dispute the likelihood that leaders will really be punished politically for backing down, especially if the threat was not explicit and unambiguous or if they have good policy reasons for doing so.173 Additionally, even if transparency in democratic institutions allows domestic dissent from threats of force to be visible to foreign audiences, it is not clear that adversaries would interpret these mechanisms as political scientists expect in their models of strategic interaction, in light of various common problems of misperception in international relations.174 These disputes are not just between competing theoretical models but also over the links between any of the models and real-world political behavior by states. At this point there remains a dearth of good historical evidence as to how foreign leaders interpret political maneuvers within Congress regarding threatened force. Nevertheless, at the very least, strands of recent political science scholarship cast significant doubt on the intuition that democratic checks are inherently disadvantageous to strategies of threatened force. Quite the contrary, they suggest that legislative checks – or, indeed, even the signaling functions that Congress is institutionally situated to play with respect to foreign audiences interpreting U.S. government moves – can be harnessed in some circumstances to support such strategies. C. Legal Reform and Strategies of Threatened Force Among legal scholars of war powers, the ultimate prescriptive question is whether the President should be constrained more formally and strongly than he currently is by legislative checks, especially a more robust and effective mandatory requirement of congressional authorization to use force. Calls for reform usually take the form of narrowing and better enforcement (by all three branches of government) of purported constitutional requirements for congressional authorization of presidential uses of force or revising and enforcing the War Powers Resolutions or other framework legislation requiring express congressional authorization for such actions.175 As applied to strategies of threatened force, generally under these proposals the President would lack authority to make good on them unilaterally (except in whatever narrow circumstances for which he retains his own unilateral authority, such as deterring imminent attacks on the United States). Whereas legal scholars are consumed with the internal effects of war powers law, such as whether and when it constrains U.S. government decision-making, the analysis contained in the previous section shifts attention externally to whether and when U.S. law might influence decision-making by adversaries, allies, and other international actors. In prescriptive terms, if the President’s power to use force is linked to his ability to threaten it effectively, then any consideration of war powers reform on policy outcomes and longterm interests should include the important secondary effects on deterrent and coercive strategies – and how U.S. legal doctrine is perceived and understood abroad.176 Would stronger requirements for congressional authorization to use force reduce a president’s opportunities for bluffing, and if so would this improve U.S. coercive diplomacy by making ensuing threats more credible? Or would it undermine diplomacy by taking some threats off the table as viable policy options? Would stronger formal legislative powers with respect to force have significant marginal effects on the signaling effects of dissent within Congress, beyond those effects already resulting from open political discourse? These are difficult questions, but the analysis and evidence above helps generate some initial hypotheses and avenues for further research and analysis. One might ask at this point why, though, having exposed as a hole in war powers legal discourse the tendency to overlook threatened force, this Article does not take up whether Congress should assert some direct legislative control of threats – perhaps statutorily limiting the President’s authority to make them or establishing procedural conditions like presidential reporting requirements to Congress. This Article puts such a notion aside for several reasons. First, for reasons alluded to briefly above, such limits would be very constitutionally suspect and difficult to enforce.177 Second, even the most ardent war-power congressionalists do not contemplate such direct limits on the President’s power to threaten; they are not a realistic option for reform. Instead, this Article focuses on the more plausible – and much more discussed – possibility of strengthening Congress’s power over the ultimate decision whether to use force, but augments the usual debate over that question with appreciation for the importance of credible threats. A claim previously advanced from a presidentialist perspective is that stronger legislative checks on war powers is harmful to coercive and deterrent strategies, because it establishes easily-visible impediments to the President’s authority to follow through on threats. This was a common policy argument during the War Powers Resolution debates in the early 1970s. Eugene Rostow, an advocate inside and outside the government for executive primacy, remarked during consideration of legislative drafts that any serious restrictions on presidential use of force would mean in practice that “no President could make a credible threat to use force as an instrument of deterrent diplomacy, even to head off explosive confrontations.”178 He continued: In the tense and cautious diplomacy of our present relations with the Soviet Union, as they have developed over the last twenty-five years, the authority of the President to set clear and silent limits in advance is perhaps the *most* important of all the powers in our constitutional armory to prevent confrontations that could carry nuclear implications. … [I]t is the diplomatic power the President needs most under the circumstance of modern life—the power to make a credible threat to use force in order to prevent a confrontation which might escalate.179 In his veto statement on the War Powers Resolution, President Nixon echoed these concerns, arguing that the law would undermine the credibility of U.S. deterrent and coercive threats in the eyes of both adversaries and allies – they would know that presidential authority to use force would expire after 60 days, so absent strong congressional support they could assume U.S. withdrawal at that point.180 In short, those who oppose tying the president’s hands with mandatory congressional authorization requirements to use force sometimes argue that doing so incidentally and dangerously ties his hands in threatening it. A critical assumption here is that presidential flexibility, preserved in legal doctrine, enhances the credibility of presidential threats to escalate.

## Case

### Solvency

#### ZERO SOLVENCY - their solvency relies upon stopping the military from polluting on bases, in transport, and stopping from oil spills.  The environmental damage from the military DOES NOT happen as a result of introduction of armed forces into hostilities - it happens EVERYWHERE ELSE - biodiversity is not threatened because we drone strike yemen - The court will view the plan narrowly

McCormack 13, Professor of Law at Utah

(8/20, Wayne, U.S. Judicial Independence: Victim in the “War on Terror”, [today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/](http://today.law.utah.edu/projects/u-s-judicial-independence-victim-in-the-war-on-terror/)

One of the principal victims in the U.S. so-called “war on terror” has been the independence of the U.S. Judiciary. Time and again, challenges to assertedly illegal conducton the part of government officials have been turned aside, either because of overt deference to the Government or because of special doctrines such as state secrets and standing requirements. The judiciary has virtually relinquished its valuable role in the U.S. system of judicial review. In the face of governmental claims of crisis and national security needs, the courts have refused to examine, or have examined with undue deference, the actions of government officials.

### Environ

**Environmental improvements now** – their evidence ignores long term trends

**Hayward ‘11** [Steven P, american author, political commentator, and policy scholar. He argues for libertarian and conservative viewpoints in his writings. He writes frequently on the topics of environmentalism, law, economics, and public policy.2011 Almanac of Environmental Trends¶ by Steven F. Hayward¶ April 2011¶ ISBN-13: 978-1-934276-17-4, <http://www.pacificresearch.org/docLib/20110419_almanac2011.pdf>]

Quick: What’s the largest public-policy success story in American society over the last generation? The dramatic reduction in the crime rate, which has helped make major American cities livable again? Or welfare reform, which saw the nation’s welfare rolls fall by more than half since the early 1990s? Both of these accomplishments have received wide media attention. Yet the right answer might well be the environment. As Figure 1 displays, the reduction in air pollution is comparable in magnitude to the reduction in the welfare rolls, and greater than the reduction in the crime rate—both celebrated as major public-policy success stories of the last two decades. Aggregate emissions of the six “criteria” pollutants1 regulated under the Clean Air Act have fallen by **53 percent** since 1970, while the proportion of the population receiving welfare assistance is down 48 percent from 1970, and the crime rate is only 6.4 percent below its 1970 level. (And as we shall see, this aggregate nationwide reduction in emissions greatly understates the actual improvement in ambient air quality in the areas with the worst levels of air pollution.) Measures for **water quality**, **toxic**-chemical **exposure**, **soil erosion**, **forest growth**, **wetlands**, **and** several other areas of environmental concern **show similar positive trends**, as this Almanac reports. To paraphrase Mark Twain, reports of the demise of the environment have been **greatly exaggerated**. Moreover, there is good reason to believe that these kinds of improvements will be experienced in the rest of the world over the course of this century. We’ll examine some of the early evidence that this is already starting to occur. The chief drivers of environmental improvement are economic growth, constantly increasing resource efficiency, technological innovation in pollution control, and the deepening of environmental values among the American public that have translated to changed behavior and consumer preferences. Government regulation has played a vital role, to be sure, but in the grand scheme of things regulation can be understood as a lagging indicator, often achieving results at needlessly high cost, and sometimes failing completely. Were it not for rising affluence and technological innovation, regulation would have much the same effect as King Canute commanding the tides. INTRODUCTION introduction 3 figure 1 a comparison of crime rate, Welfare, and air Pollution, 1970–2007 -60.0% -40.0% -20.0% 0.0% 20.0% 40.0% 60.0% 1970 1975 1980 1985 1990 1995 2000 2005 2007 % of Population on Welfare Crime Rate (per 100,000 population) Aggregate Emissions Source: FBI Uniform Crime Reports, U.S. Department of Health and Human Services, EPA 4 Almanac of Environmental Trends The American public remains largely unaware of these trends. For most of the last 40 years, public opinion about the environment has been pessimistic, with large majorities—sometimes as high as 70 percent—telling pollsters that they think environmental quality in the United States is getting worse instead of better, and will continue to get worse in the future. One reason for this state of opinion is media coverage, which emphasizes bad news and crisis; another reason is environmental advocacy groups, for whom good news is bad news. As the cliche goes, you can’t sell many newspapers with headlines about airplanes landing safely, or about an oil tanker docking without a spill. Similarly, slow, long-term trends don’t make for good headline copy. INTRODUCTIONintroduction 5Improving Trends:Causes and ConsequencesMost environmental commentary dwells on the laws and regulations we have adoptedto achieve our goals, but it is essential to understand the more important role of technologyand economic growth in bringing about favorable environmental trends. Thebest way to see this is to look at some long-term trends in environmental quality thatpredate modern environmental legislation.To be sure, the earliest phases of the Industrial Revolution led to severe environmentaldegradation. But the inexorable process of technological innovation andthe drive for efficiency began to remedy much of this damage far earlier than iscommonly perceived. In addition, new technologies that we commonly regard as environmentally destructive often replaced older modes of human activity that were far worse by comparison. A good example is the introduction of coal for heating andenergy in Britain.

**This impact is flawed science and is empirically denied**

**Campbell ‘11** (Hank, Science Writer for Science 2.0, “I Wouldn't Worry About The Latest Mass Extinction Scare,” March 8th, <http://www.science20.com/science_20/i_wouldnt_worry_about_latest_mass_extinction_scare-76989>,

You've seen it everywhere by now - Earth's sixth **mass extinction**: Is it almost here? and other articles discussing an article in Nature (471, 51–57 doi:10.1038/nature09678) claiming the end of the world is nigh. Hey, I like to live in important times. So do most people. And something so important it has only happened 5 times in 540 million years, well that is really special. But **is it real?** Anthony Barnosky, integrative biologist at the University of California at Berkeley and first author of the paper, claims that if currently threatened species, those officially classed as critically endangered, endangered, and vulnerable, actually went extinct, and that rate of extinction continued, the sixth mass extinction could arrive in 3-22 centuries. Wait, what?? That's a lot of helping verbs confusing what should be a fairly clear issue, if it were clear. **If you know anything about species** and extinction, **you have** already read one paragraph of my overview and **seen the flaws in their model. Taking a few extinct** mammal **species** that we know about **and then extrapolating** that out to be **extinction hysteria** right now if we don't do something about global warming **is not good science**. Worse, an integrative biologist is saying evolution does not happen. Polar bears did not exist forever, they came into existence 150,000 years ago - because of the Ice Age. Greenpeace co-founder and ecologist Dr. Patrick Moore told a global warming skepticism site, “I quit my life-long subscription to National Geographic when they published a similar 'sixth mass extinction' article in February 1999. This [latest journal] Nature article just re-hashes this theme” and "The fact that the study did make it through peer-review indicates that the peer review process has become corrupted.” Well, how did it make it through peer review? Read this bizarre justification of their methodology; "If you look only at the critically endangered mammals--those where the risk of extinction is at least 50 percent within three of their generations--and assume that their time will run out and they will be extinct in 1,000 years, that puts us clearly outside any range of normal and tells us that we are moving into the mass extinction realm." Well, **greater extinctions occurred when Europeans visited the Americas and in a much shorter time.** And since we don't know how many species there are now, or have ever been, if someone makes a model and claims tens of thousands of species are going extinct today, that sets off cultural alarms. It's not science, though. If only 1% of species have gone extinct in the groups we really know much about, that is hardly a time for panic, especially if some **99 percent of all species that have ever existed** we don't know anything about because they...**went extinct. And we did not.** **It won't keep** some **researchers, and the mass media, from pushing the panic button**. Co-author Charles Marshall, also an integrative biologist at UC-Berkeley wants to keep the panic button fully engaged by emphasizing that the small number of recorded extinctions to date does not mean we are not in a crisis. "Just because the magnitude is low compared to the biggest mass extinctions we've seen in half a billion years doesn't mean they aren't significant." **It's a double negative, bad logic and questionable science**, though.

**Adaptation solves**

**Thompson et al. ‘9** (Ian Thompson et al., Canadian Forest Service, Brendan Mackey, The Australian National University, The Fenner School of Environment and Society, College of Medicine, Biology and Environment, Steven McNulty, USDA Forest Service, Alex Mosseler, Canadian Forest Service, 2009, Secretariat of the Convention on Biological Diversity “Forest Resilience, Biodiversity, and Climate Change” Convention on Biological Diversity

Concerns have been expressed that predicted cli- mate changes (IPCC 2007) may occur too quickly for species to adapt (Huntley 1991, Davis and Shaw 2001, Jump and Penuelas 2005), but **genetically diverse** **species are capable of rapid evolution** (Geber and Dawson 1993). **Many species** **have adapted to rapid changes and have done so repeatedly over geo- logical time through dispersal and genetic changes** based on the extant genetic diversity within local or regional gene pools, suggesting long-term genetic- based **resilience to change**. **There is considerable evidence for adaptation in the geological and fossil record** (Bernabo and Webb 1977, Webb 1981, Davis 1983, Huntley and Birks 1983, and review by Geber and Dawson 1993). Such adaptation has been demonstrated by forest plants during or following past glacial and interglacial episodes, which were characterized by relatively rapid climate change (Huntley and Webb 1988).

**No Iran war scenario**

**Riedel 12** – Senior Fellow in the Saban Center for Middle East Policy at the Brookings Institution and a professor at Georgetown University (Bruce, 01/20, “Iran is not an existential threat,” http://thedailynewsegypt.com/global-views/iran-is-not-an-existential-threat.html)

The danger of war is growing again over Iran's nuclear ambitions. Iran is rattling its sabers, the Republican presidential candidates and others are rattling theirs. But even if Iran gets the bomb, Israel will have **overwhelming** military superiority over Iran, a fact that should not be lost in all the heated rhetoric. Former head of the Mossad, Meir Dagan, says Iran won't get the bomb until at least 2015. In contrast, Israel has had nuclear weapons since the late 1960s and has jealously guarded its monopoly on them in the region. Israel has used force in the past against developing nuclear threats. Iraq in 1981 and Syria in 2007 were the targets of highly effective Israeli air strikes against developing nuclear weapons programs. Israel has **seriously considered** conducting such a strike against Iran and may well do so especially now that it has special bunker-busting bombs from the US. Estimates of the size of the Israeli arsenal by international think tanks generally concur that Israel has about 100 nuclear weapons, possibly 200. Even under a crash program, Iran won't achieve an arsenal that size for many years — perhaps **decades**. Israel also has multiple delivery systems. It has intermediate range ballistic missiles, the Jericho, that are capable of reaching **any target** in Iran. Its fleet of F15 long-range strike aircraft can also deliver nuclear payloads. Some analysts have suggested that it can also deliver nuclear weapons from its German-made Dolphin submarines using cruise missiles. Israel will also continue to have conventional military superiority over Iran and the rest of the region. The Israel Defense Forces has a demonstrated qualitative edge over all of its potential adversaries in the region, including Iran. The Israeli air force has the capability to penetrate air defense systems with virtual impunity as it demonstrated in 2007 when it destroyed Syria's nascent nuclear capability. The IDF's intelligence and electronic warfare capabilities are vastly superior to its potential rivals. The 2006 Lebanon war and the 2009 Gaza war demonstrated that there are limits to Israel's conventional capabilities but those limits should not obscure the underlying reality of Israel's conventional military superiority over its enemies. Iran, on the other hand, has never fully rebuilt its conventional military from the damage suffered in the Iran-Iraq war. It still relies heavily for air and sea power on equipment purchased by the Shah 40 years ago, much of which is antique today. Moreover, the June 2010 United Nations sanctions, UN Security Council resolution 1929, impose a very stringent arms ban on Iran. Virtually **all** significant weapons systems — tanks, aircraft, naval vessels, missiles, etc — are banned from sale or transfer to Iran. Training and technical assistance for such systems is also banned. In other words, even if Iran wants to try to improve its conventional military capability in the next few years and has the money to do so, the UN arms ban will make that close to impossible. Iran does not have the capability to produce state-of-the-art weapons on its own, despite its occasional claims of self-sufficiency. It certainly cannot build a modern air force to compete with the IDF on its own. Finally, Israel will continue to enjoy the support of the world's only superpower for the foreseeable future. Assistance from the United States includes roughly $3 billion in aid every year. That is the longest running financial assistance program in American history, dating back to the 1973 war. It is never challenged or cut by Congress and permits Israeli planners to do multi-year planning for defense acquisitions with great certitude about what they can afford to acquire. When Texas Governor Rick Perry suggested cutting aid to Israel to zero in one Republican debate, his poll numbers plummeted. He backtracked fast. US assistance is also far more than just financial aid. The Pentagon and Israel engage in constant exchanges of technical cooperation in virtually all elements of the modern battle field. Missile defense has been at the center of this exchange for over 20 years now. The United States and Israel also have a robust and dynamic intelligence relationship, which helps ensure Israel's **qualitative** edge. Every American president from Richard Nixon to Barack Obama has been a supporter of maintaining Israel's qualitative edge over its potential foes, including US allies like Egypt and Saudi Arabia. Iran, in contrast, has no major power providing it with financial help. Its arms relationships with Russia and China have been severed by Security Council Resolution 1929. Its only military ally is Syria, not exactly a powerhouse. And Syria is now in the midst of a civil war; its army is dissolving. If President Bashar Al-Assad falls, Iran is the biggest loser in the "Arab spring". Hezbollah will be the second largest loser. The deputy secretary general of Hezbollah and one of its founders, Sheikh Naim Qassem, wrote in 2007 that Syria is "the cornerstone" of Hezbollah’s survival in the region. While Syria and Hezbollah have their differences, the relationship is a "necessity" for Hezbollah. So don't let the hot air from Tehran or the Republican debates confuse the reality on the ground. Iran is a dangerous country but it is **not an existential threat** to either Israel or America.

**Iran’s not a threat**

**Nader and Dobbins ’12** (1/5/12 [Alireza Nader, senior policy analyst at the RAND Corporation, and James Dobbins, a former U.S. assistant secretary of state, is director of the International Security and Defense Policy Center at RAND, “Iran’s Self-Destructive Gamble”, The New York Times, 1-5-2012, <http://www.nytimes.com/2012/01/06/opinion/irans-self-destructive-gamble.html?_r=1>]

In these circumstances, it is important to realistically judge the nature and extent of the Iranian threat. For all its bluster, the Iranian regime is more vulnerable than at any time in its 32-year history. Internally, Iran is constrained by deep political divisions, civil strife and a woeful economy. President Mahmoud Ahmadinejad has directly challenged the country’s supreme leader, Ayatollah Ali Khamenei, while Khamenei has spoken of eliminating the presidency. The life of the ordinary Iranian becomes more precarious every day, with rising unemployment, inflation, state repression, and the country’s growing international isolation. The regime has maintained a superficial sense of stability through repression. Legislative elections are scheduled for early March. Leaders of the reformist Green movement are threatening to boycott the ballot, but there will still be a closely fought contest between the more religious and secularist wings of the regime. Both this election and the presidential vote next year could well become occasions for public demonstrations of the sort that threatened the regime three years ago and have since toppled several Middle East governments. Iran is on the brink of losing its only real ally, Syria, as President Bashir al-Assad looks as if he could be the next Arab dictator to fall. Tightening international sanctions are slowing Iran’s nuclear program while limiting its ability to project power. Saudi Arabia, Iran’s principal regional rival, is leading the other Gulf states in an ever more explicit anti-Iranian coalition. The United States is strengthening its military and political ties with several of these states. Iran’s leaders have watched U.S. forces topple Saddam Hussein and the Taliban with relative ease and NATO help do the same with Col. Muammar el-Qaddafi in Libya; Iran’s antiquated conventional forces are no match for the U.S. military. And the Iranian regime believes that the United States remains committed to a policy of regime change, even though Washington might not presently have the appetite for a new military intervention.

**No prolif cascades and long timeframe – their ev is biased**

Kahl 13 – Senior Fellow at the Center for a New American Security and an associate professor in the Security Studies Program at Georgetown University’s Edmund A. Walsh School of Foreign Service (Colin H., Melissa G. Dalton, Visiting Fellow at the Center for a New American Security, Matthew Irvine, Research Associate at the Center for a New American Security, February, “If Iran Builds the Bomb, Will Saudi Arabia Be Next?” <http://www.cnas.org/files/documents/publications/CNAS_AtomicKingdom_Kahl.pdf>)

\*\*\*cites Jacques Hymans, USC Associate Professor of IR\*\*\*

I I I . LESSONS FROM HISTORY Concerns over “regional proliferation chains,” “falling nuclear dominos” and “nuclear tipping points” are nothing new; indeed, reactive proliferation fears date back to the dawn of the nuclear age.14 Warnings of an inevitable deluge of proliferation were commonplace from the 1950s to the 1970s, resurfaced during the discussion of “rogue states” in the 1990s and became even more ominous after 9/11.15 In 2004, for example, Mitchell Reiss warned that “in ways both fast and slow, we may very soon be approaching a nuclear ‘tipping point,’ where many countries may decide to acquire nuclear arsenals on short notice, thereby triggering a proliferation epidemic.” Given the presumed fragility of the nuclear nonproliferation regime and the ready supply of nuclear expertise, technology and material, Reiss argued, “a single new entrant into the nuclear club could catalyze similar responses by others in the region, with the Middle East and Northeast Asia the most likely candidates.”16 Nevertheless, predictions of inevitable proliferation cascades have historically proven false (see The Proliferation Cascade Myth text box). In the six decades since atomic weapons were first developed, nuclear restraint has proven far more common than nuclear proliferation, and cases of reactive proliferation have been exceedingly rare. Moreover, most countries that have started down the nuclear path have found the road more difficult than imagined, both technologically and bureaucratically, leading the majority of nuclear-weapons aspirants to reverse course. Thus, despite frequent warnings of an unstoppable “nuclear express,”17 William Potter and Gaukhar Mukhatzhanova astutely note that the “train to date has been slow to pick up steam, has made fewer stops than anticipated, and usually has arrived much later than expected.”18 None of this means that additional proliferation in response to Iran’s nuclear ambitions is inconceivable, but the empirical record does suggest that regional chain reactions are not inevitable. Instead, only certain countries are candidates for reactive proliferation. Determining the risk that any given country in the Middle East will proliferate in response to Iranian nuclearization requires an assessment of the incentives and disincentives for acquiring a nuclear deterrent, the technical and bureaucratic constraints and the available strategic alternatives. Incentives and Disincentives to Proliferate Security considerations, status and reputational concerns and the prospect of sanctions combine to shape the incentives and disincentives for states to pursue nuclear weapons. Analysts predicting proliferation cascades tend to emphasize the incentives for reactive proliferation while ignoring or downplaying the disincentives. Yet, as it turns out, instances of nuclear proliferation (including reactive proliferation) have been so rare because going down this road often risks insecurity, reputational damage and economic costs that outweigh the potential benefits.19 Security and regime survival are especially important motivations driving state decisions to proliferate. All else being equal, if a state’s leadership believes that a nuclear deterrent is required to address an acute security challenge, proliferation is more likely.20 Countries in conflict-prone neighborhoods facing an “enduring rival”– especially countries with inferior conventional military capabilities vis-à-vis their opponents or those that face an adversary that possesses or is seeking nuclear weapons – may be particularly prone to seeking a nuclear deterrent to avert aggression.21 A recent quantitative study by Philipp Bleek, for example, found that security threats, as measured by the frequency and intensity of conventional militarized disputes, were highly correlated with decisions to launch nuclear weapons programs and eventually acquire the bomb.22 The Proliferation Cascade Myth Despite repeated warnings since the dawn of the nuclear age of an inevitable deluge of nuclear proliferation, such fears have thus far proven largely unfounded. Historically, nuclear restraint is the rule, not the exception – and the degree of restraint has actually increased over time. In the first two decades of the nuclear age, five nuclear-weapons states emerged: the United States (1945), the Soviet Union (1949), the United Kingdom (1952), France (1960) and China (1964). However, in the nearly 50 years since China developed nuclear weapons, only four additional countries have entered (and remained in) the nuclear club: Israel (allegedly in 1967), India (“peaceful” nuclear test in 1974, acquisition in late-1980s, test in 1998), Pakistan (acquisition in late-1980s, test in 1998) and North Korea (test in 2006).23 This significant slowdown in the pace of proliferation occurred despite the widespread dissemination of nuclear know-how and the fact that the number of states with the technical and industrial capability to pursue nuclear weapons programs has significantly increased over time.24 Moreover, in the past 20 years, several states have either given up their nuclear weapons (South Africa and the Soviet successor states Belarus, Kazakhstan and Ukraine) or ended their highly developed nuclear weapons programs (e.g., Argentina, Brazil and Libya).25 Indeed, by one estimate, 37 countries have pursued nuclear programs with possible weaponsrelated dimensions since 1945, yet the overwhelming number chose to abandon these activities before they produced a bomb. Over time, the number of nuclear reversals has grown while the number of states initiating programs with possible military dimensions has markedly declined.26 Furthermore – especially since the Nuclear Non-Proliferation Treaty (NPT) went into force in 1970 – reactive proliferation has been exceedingly rare. The NPT has near-universal membership among the community of nations; only India, Israel, Pakistan and North Korea currently stand outside the treaty. Yet the actual and suspected acquisition of nuclear weapons by these outliers has not triggered widespread reactive proliferation in their respective neighborhoods. Pakistan followed India into the nuclear club, and the two have engaged in a vigorous arms race, but Pakistani nuclearization did not spark additional South Asian states to acquire nuclear weapons. Similarly, the North Korean bomb did not lead South Korea, Japan or other regional states to follow suit.27 In the Middle East, no country has successfully built a nuclear weapon in the four decades since Israel allegedly built its first nuclear weapons. Egypt took initial steps toward nuclearization in the 1950s and then expanded these efforts in the late 1960s and 1970s in response to Israel’s presumed capabilities. However, Cairo then ratified the NPT in 1981 and abandoned its program.28 Libya, Iraq and Iran all pursued nuclear weapons capabilities, but only Iran’s program persists and none of these states initiated their efforts primarily as a defensive response to Israel’s presumed arsenal.29 Sometime in the 2000s, Syria also appears to have initiated nuclear activities with possible military dimensions, including construction of a covert nuclear reactor near al-Kibar, likely enabled by North Korean assistance.30 (An Israeli airstrike destroyed the facility in 2007.31) The motivations for Syria’s activities remain murky, but the nearly 40-year lag between Israel’s alleged development of the bomb and Syria’s actions suggests that reactive proliferation was not the most likely cause. Finally, even countries that start on the nuclear path have found it very difficult, and exceedingly time consuming, to reach the end. Of the 10 countries that launched nuclear weapons projects after 1970, only three (Pakistan, North Korea and South Africa) succeeded; one (Iran) remains in progress, and the rest failed or were reversed.32 The successful projects have also generally needed much more time than expected to finish. According to Jacques Hymans, the average time required to complete a nuclear weapons program has increased from seven years prior to 1970 to about 17 years after 1970, even as the hardware, knowledge and industrial base required for proliferation has expanded to more and more countries.33 Yet throughout the nuclear age, many states with potential security incentives to develop nuclear weapons have nevertheless abstained from doing so.34 Moreover, contrary to common expectations, recent statistical research shows that states with an enduring rival that possesses or is pursuing nuclear weapons are not more likely than other states to launch nuclear weapons programs or go all the way to acquiring the bomb, although they do seem more likely to explore nuclear weapons options.35 This suggests that a rival’s acquisition of nuclear weapons does not inevitably drive proliferation decisions. One reason that reactive proliferation is not an automatic response to a rival’s acquisition of nuclear arms is the fact that security calculations can cut in both directions. Nuclear weapons might deter outside threats, but leaders have to weigh these potential gains against the possibility that seeking nuclear weapons would make the country or regime less secure by triggering a regional arms race or a preventive attack by outside powers. Countries also have to consider the possibility that pursuing nuclear weapons will produce strains in strategic relationships with key allies and security patrons. If a state’s leaders conclude that their overall security would decrease by building a bomb, they are not likely to do so.36 Moreover, although security considerations are often central, they are rarely sufficient to motivate states to develop nuclear weapons. Scholars have noted the importance of other factors, most notably the perceived effects of nuclear weapons on a country’s relative status and influence.37 Empirically, the most highly motivated states seem to be those with leaders that simultaneously believe a nuclear deterrent is essential to counter an existential threat and view nuclear weapons as crucial for maintaining or enhancing their international status and influence. Leaders that see their country as naturally at odds with, and naturally equal or superior to, a threatening external foe appear to be especially prone to pursuing nuclear weapons.38 Thus, as Jacques Hymans argues, extreme levels of fear and pride often “combine to produce a very strong tendency to reach for the bomb.”39 Yet here too, leaders contemplating acquiring nuclear weapons have to balance the possible increase to their prestige and influence against the normative and reputational costs associated with violating the Nuclear Non-Proliferation Treaty (NPT). If a country’s leaders fully embrace the principles and norms embodied in the NPT, highly value positive diplomatic relations with Western countries and see membership in the “community of nations” as central to their national interests and identity, they are likely to worry that developing nuclear weapons would damage (rather than bolster) their reputation and influence, and thus they will be less likely to go for the bomb.40 In contrast, countries with regimes or ruling coalitions that embrace an ideology that rejects the Western dominated international order and prioritizes national self-reliance and autonomy from outside interference seem more inclined toward proliferation regardless of whether they are signatories to the NPT.41 Most countries appear to fall in the former category, whereas only a small number of “rogue” states fit the latter. According to one count, before the NPT went into effect, more than 40 percent of states with the economic resources to pursue nuclear programs with potential military applications did so, and very few renounced those programs. Since the inception of the nonproliferation norm in 1970, however, only 15 percent of economically capable states have started such programs, and nearly 70 percent of all states that had engaged in such activities gave them up.42 The prospect of being targeted with economic sanctions by powerful states is also likely to factor into the decisions of would-be proliferators. Although sanctions alone proved insufficient to dissuade Iraq, North Korea and (thus far) Iran from violating their nonproliferation obligations under the NPT, this does not necessarily indicate that sanctions are irrelevant. A potential proliferator’s vulnerability to sanctions must be considered. All else being equal, the more vulnerable a state’s economy is to external pressure, the less likely it is to pursue nuclear weapons. A comparison of states in East Asia and the Middle East that have pursued nuclear weapons with those that have not done so suggests that countries with economies that are highly integrated into the international economic system – especially those dominated by ruling coalitions that seek further integration – have historically been less inclined to pursue nuclear weapons than those with inward-oriented economies and ruling coalitions.43 A state’s vulnerability to sanctions matters, but so too does the leadership’s assessment regarding the probability that outside powers would actually be willing to impose sanctions. Some would-be proliferators can be easily sanctioned because their exclusion from international economic transactions creates few downsides for sanctioning states. In other instances, however, a state may be so vital to outside powers – economically or geopolitically – that it is unlikely to be sanctioned regardless of NPT violations. Technical and Bureaucratic Constraints In addition to motivation to pursue the bomb, a state must have the technical and bureaucratic wherewithal to do so. This capability is partly a function of wealth. Richer and more industrialized states can develop nuclear weapons more easily than poorer and less industrial ones can; although as Pakistan and North Korea demonstrate, cash-strapped states can sometimes succeed in developing nuclear weapons if they are willing to make enormous sacrifices.44 A country’s technical know-how and the sophistication of its civilian nuclear program also help determine the ease and speed with which it can potentially pursue the bomb. The existence of uranium deposits and related mining activity, civilian nuclear power plants, nuclear research reactors and laboratories and a large cadre of scientists and engineers trained in relevant areas of chemistry and nuclear physics may give a country some “latent” capability to eventually produce nuclear weapons. Mastery of the fuel-cycle – the ability to enrich uranium or produce, separate and reprocess plutonium – is particularly important because this is the essential pathway whereby states can indigenously produce the fissile material required to make a nuclear explosive device.45 States must also possess the bureaucratic capacity and managerial culture to successfully complete a nuclear weapons program. Hymans convincingly argues that many recent would-be proliferators have weak state institutions that permit, or even encourage, rulers to take a coercive, authoritarian management approach to their nuclear programs. This approach, in turn, politicizes and ultimately undermines nuclear projects by gutting the autonomy and professionalism of the very scientists, experts and organizations needed to successfully build the bomb.46 Alternative Sources of Nuclear Deterrence Historically, the availability of credible security guarantees by outside nuclear powers has provided a potential alternative means for acquiring a nuclear deterrent without many of the risks and costs associated with developing an indigenous nuclear weapons capability. As Bruno Tertrais argues, nearly all the states that developed nuclear weapons since 1949 either lacked a strong guarantee from a superpower (India, Pakistan and South Africa) or did not consider the superpower’s protection to be credible (China, France, Israel and North Korea). Many other countries known to have pursued nuclear weapons programs also lacked security guarantees (e.g., Argentina, Brazil, Egypt, Indonesia, Iraq, Libya, Switzerland and Yugoslavia) or thought they were unreliable at the time they embarked on their programs (e.g., Taiwan). In contrast, several potential proliferation candidates appear to have abstained from developing the bomb at least partly because of formal or informal extended deterrence guarantees from the United States (e.g., Australia, Germany, Japan, Norway, South Korea and Sweden).47 All told, a recent quantitative assessment by Bleek finds that security assurances have empirically significantly reduced proliferation proclivity among recipient countries.48 Therefore, if a country perceives that a security guarantee by the United States or another nuclear power is both available and credible, it is less likely to pursue nuclear weapons in reaction to a rival developing them. This option is likely to be particularly attractive to states that lack the indigenous capability to develop nuclear weapons, as well as states that are primarily motivated to acquire a nuclear deterrent by security factors (as opposed to status-related motivations) but are wary of the negative consequences of proliferation.

### Citizen Suits

**U.S can’t solve warming**

**Grose ‘3-15**

(Thomas K., National Geographic News Writer, “As U.S. Cleans Its Energy Mix, It Ships Coal Problems Abroad”

Ready for some good news about the environment? Emissions of carbon dioxide in the United States are declining. But don't celebrate just yet. A major side effect of that cleaner air in the U.S. has been the further darkening of skies over Europe and Asia. The United States essentially is exporting a share of its greenhouse gas emissions in the form of coal, data show. If the trend continues, the dramatic changes in energy use in the United States—in particular, the switch from coal to newly abundant natural gas for generating electricity—will have only a modest impact on global warming, observers warn. The Earth's atmosphere will continue to absorb heat-trapping CO2, with a similar contribution from U.S. coal. It will simply be burned overseas instead of at home. "Switching from coal to gas only saves carbon if the coal stays in the ground," said John Broderick, lead author of a study on the issue by the Tyndall Center for Climate Change Research at England's Manchester University. The U.S. Energy Information Administration (EIA) released data this week showing that United States coal exports hit a record 126 million short tons in 2012, a 17 percent increase over the previous year. Overseas shipments surpassed the previous high mark set in 1981 by 12 percent. The United States clearly is using less coal: Domestic consumption fell by about 114 million tons, or 11 percent, largely due to a decline in the use of coal for electricity. But U.S. coal production fell just 7 percent. The United States, with the world's largest coal reserves, continued to churn out the most carbon-intensive fuel, producing 1 billion tons of coal from its mines in 2012. Emissions Sink The EIA estimates that due largely to the drop in coal-fired electricity, U.S. carbon emissions from burning fossil fuel declined 3.4 percent in 2012. If the numbers hold up, it will extend the downward trend that the U.S. Environmental Protection Agency (EPA) outlined last month in its annual greenhouse gas inventory, which found greenhouse gas emissions in 2011 had fallen 8 percent from their 2007 peak to 6,703 million metric tons of CO2 equivalent (a number that includes sources other than energy, like methane emissions from agriculture). In fact, if you don't count the recession year of 2009, U.S. emissions in 2011 dropped to their lowest level since 1995. President Barack Obama counted the trend among his environmental accomplishments in his State of the Union address last month: "Over the last four years, our emissions of the dangerous carbon pollution that threatens our planet have actually fallen." The reason is clear: Coal, which in 2005 generated 50 percent of U.S. electricity, saw its share erode to 37.4 percent in 2012, according to EIA's new short-term energy outlook. An increase in U.S. renewable energy certainly played a role; renewables climbed in those seven years from 8.7 percent to 13 percent of the energy mix, about half of it hydropower. But the big gain came from natural gas, which climbed from 19 percent to 30.4 percent of U.S. electricity during that time frame, primarily because of abundant supply and low prices made possible by hydraulic fracturing, or fracking. The trend appears on track to continue, with U.S. coal-fired plants being retired at a record pace. But U.S. coal producers haven't been standing still as their domestic market has evaporated. They've been shipping their fuel to energy-hungry markets overseas, from the ports of Norfolk, Baltimore, and New Orleans. Although demand is growing rapidly in Asia—U.S. coal exports to China were on track to double last year—Europe was the biggest customer, importing more U.S. coal last year than all other countries combined. The Netherlands, with Europe's largest port, Rotterdam, accepted the most shipments, on pace for a 24 jump in U.S. coal imports in 2012. The United Kingdom, the second largest customer, saw its U.S. coal imports jump more than 70 percent. The hike in European coal consumption would appear to run counter to big government initiatives across the Continent to cut CO2 emissions. But in the European Union, where fracking has made only its initial forays and natural gas is still expensive, American coal is, well, dirt cheap. European utilities are now finding that generating power from coal is a profitable gambit. In the power industry, the profit margin for generating electricity from coal is called the "clean dark spread"; at the end of December in Great Britain, it was going for about $39 per megawatt-hour, according to Argus. By contrast, the profit margin for gas-fired plants—the "clean spark spread"—was about $3. Tomas Wyns, director of the Center for Clean Air Policy-Europe, a nonprofit organization in Brussels, Belgium, said those kinds of spreads are typical across Europe right now. The EU has a cap-and-trade carbon market, the $148 billion, eight-year-old Emissions Trading System (ETS). But it's in the doldrums because of a huge oversupply of permits. That's caused the price of carbon to fall to about 4 euros ($5.23). A plan called "backloading" that would temporarily extract allowances from the market to shore up the price has faltered so far in the European Parliament. "A better carbon price could make a difference" and even out the coal and gas spreads, Wyns said. He estimates a price of between 20 and 40 euros would do the trick. "But a structural change to the Emissions Trading System is not something that will happen very quickly. A solution is years off." The Tyndall Center study estimates that the burning of all that exported coal could erase fully half the gains the United States has made in reducing carbon emissions. For huge reserves of shale gas to help cut CO2 emissions, "displaced fuels must be reduced globally and remain suppressed indefinitely," the report said. Future Emissions It is not clear that the surge in U.S. coal exports will continue. One reason for the uptick in coal-fired generation in Europe has been the looming deadline for the EU's Large Combustion Plant Directive, which will require older coal plants to meet lower emission levels by the end of 2015 or be mothballed. Before that phaseout begins, Wyns says, "there is a bit of a binge going on." Also, economic factors are at work. Tyndall's Broderick said American coal companies have been essentially selling surplus fuel overseas at low profit margins, so there is a likelihood that U.S. coal production will decrease further. The U.S. government forecasters at EIA expect that U.S. coal exports will fall back to about 110 million tons per year over the next two years, due to economic weakness in Europe, falling international prices, and competition from other coal-exporting countries. The Paris-based International Energy Agency (IEA) calls Europe's "coal renaissance" a temporary phenomenon; it forecasts an increasing use of renewables, shuttering of coal plants, and a better balance between gas and coal prices in the coming years. But IEA does not expect that the global appetite for coal will slacken appreciably. The agency projects that, by 2017, coal will rival oil as the world's primary energy source, mainly because of skyrocketing demand in Asia. U.S. coal producers have made clear that they aim to tap into that growing market.

**Warming won’t cause extinction**

**Barrett** **‘7** professor of natural resource economics – Columbia University, (Scott, Why Cooperate? The Incentive to Supply Global Public Goods, introduction)

First, **climate change does not threaten the survival of the human species**.5 If unchecked, it will cause other species to become extinction (though biodiversity is being depleted now due to other reasons). It will alter critical ecosystems (though this is also happening now, and for reasons unrelated to climate change). It will reduce land area as the seas rise, and in the process displace human populations. “Catastrophic” climate change is possible, but not certain. Moreover, and unlike an asteroid collision, large changes (such as sea level rise of, say, ten meters) **will likely take centuries to unfold, giving societies time to adjust.** “Abrupt” climate change is also possible, and will occur more rapidly, perhaps over a decade or two. However, **abrupt climate change** (such as a weakening in the North Atlantic circulation), though potentially very serious, **is unlikely to be ruinous.** Human-induced climate change is an experiment of planetary proportions, and we cannot be sur of its consequences. Even in a worse case scenario, however, global climate change is not the equivalent of the Earth being hit by mega-asteroid. Indeed, if it were as damaging as this, and if we were sure that it would be this harmful, then our incentive to address this threat would be overwhelming. The challenge would still be more difficult than asteroid defense, but we would have done much more about it by now.

**CO2 isn’t key**

**Watts ’12** 25-year climate reporter, works with weather technology, weather stations, and weather data processing systems in the private sector, 7/25/

(Anthony, <http://wattsupwiththat.com/2012/07/25/lindzen-at-sandia-national-labs-climate-models-are-flawed/>)

ALBUQUERQUE, N.M. — Massachusetts Institute of Technology professor Richard Lindzen, a global warming skeptic, told about 70 Sandia researchers in June that too much is being made of climate change by researchers seeking government funding. He said their data and their methods did not support their claims. “Despite concerns over the last decades with the greenhouse process, **they oversimplify the effect**,” he said. “Simply cranking up CO2 [carbon dioxide] (as the culprit) is not the answer” to what causes climate change. Lindzen, the ninth speaker in Sandia’s Climate Change and National Security Speaker Series, is Alfred P. Sloan professor of meteorology in MIT’s department of earth, atmospheric and planetary sciences. He has published more than 200 scientific papers and is the lead author of Chapter 7 (“Physical Climate Processes and Feedbacks”) of the International Panel on Climate Change’s (IPCC) Third Assessment Report. He is a member of the National Academy of Sciences and a fellow of the American Geophysical Union and the American Meteorological Society. For 30 years, **climate scientists have been “locked into a simple-minded identification of climate with greenhouse-gas level**. … That climate should be the function of a single parameter (like CO2) has always seemed implausible. Yet an **obsessive focus on such an obvious oversimplification** has likely set back progress by decades,” Lindzen said. **For major climates of the past, other factors were more important than carbon dioxide.** Orbital variations have been shown to quantitatively account for the cycles of glaciations of the past 700,000 years, he said, and the elimination of the arctic inversion, when the polar caps were ice-free, “is likely to have been **more important than CO2** for the warm episode during the Eocene 50 million years ago.” There is little evidence that changes in climate are producing extreme weather events, he said. “Even the IPCC says there is little if any evidence of this. In fact, there are important physical reasons for doubting such anticipations.” Lindzen’s views run counter to those of almost all major professional societies. For example, the American Physical Society statement of Nov. 18, 2007, read, “The evidence is incontrovertible: Global warming is occurring.” But he doesn’t feel they are necessarily right. “Why did the American Physical Society take a position?” he asked his audience. “Why did they find it compelling? They never answered.” Speaking methodically with flashes of humor — “I always feel that when the conversation turns to weather, people are bored.” — he said a basic problem with current computer climate models that show disastrous increases in temperature is that relatively small increases in atmospheric gases lead to large changes in temperatures in the models. But, he said, “predictions based on high (climate) sensitivity ran well ahead of observations.” Real-world observations do not support IPCC models, he said: “**We’ve already seen** almost the equivalent of **a doubling of CO2** (**in radiative forcing**) **and that has produced very little warming.”** He disparaged proving the worth of models by applying their criteria to the prediction of past climatic events, saying, “The models are no more valuable than answering a test when you have the questions in advance.” Modelers, he said, merely have used aerosols as a kind of fudge factor to make their models come out right. (Aerosols are tiny particles that reflect sunlight. They are put in the air by industrial or volcanic processes and are considered a possible cause of temperature change at Earth’s surface.) Then there is the practical question of what can be done about temperature increases even if they are occurring, he said. “China, India, Korea are not going to go along with IPCC recommendations, so … the only countries punished will be those who go along with the recommendations.” He discounted mainstream opinion that climate change could hurt national security, saying that “historically there is little evidence of natural disasters leading to war, but economic conditions have proven much more serious. Almost all proposed mitigation policies lead to reduced energy availability and higher energy costs. All studies of human benefit and national security perspectives show that increased energy is important.” He showed a graph that demonstrated that more energy consumption leads to higher literacy rate, lower infant mortality and a lower number of children per woman. Given that proposed policies are unlikely to significantly influence climate and that lower energy availability could be considered a significant threat to national security, to continue with a mitigation policy that reduces available energy “would, at the least, appear to be irresponsible,” he argued. Responding to audience questions about rising temperatures, he said **a 0.8 of a degree C change in temperature in 150 years is a small change.** Questioned about five-, seven-, and 17-year averages that seem to show that Earth’s surface temperature is rising, he said temperatures are always fluctuating by tenths of a degree.

**We’ll adapt**

**Kenny 12** [April 9, 2012, Charles, senior fellow at the Center for Global Development, a Schwartz fellow at the New America Foundation, and author, most recently, of Getting Better: Why Global Development Is Succeeding and How We Can Improve the World Even More., “Not Too Hot to Handle,” http://www.foreignpolicy.com/articles/2012/04/09/not\_too\_hot\_to\_handle?print=yes&hidecomments=yes&page=full]

But for all international diplomats appear desperate to affirm the self-worth of pessimists and doomsayers worldwide, it is important to put climate change in a broader context. It is a vital global issue -- one that threatens to slow the worldwide march toward improved quality of life. Climate change is already responsible for more extreme weather and an accelerating rate of species extinction -- and may ultimately kill off as many as 40 percent of all living species. But it is also a problem that we know how to tackle, and one to which we have some time to respond before it is likely to completely derail progress. And that's good news, because the fact that it's manageable is the best reason to try to tackle it rather than abandon all hope like a steerage class passenger in the bowels of the Titanic.

Start with the economy. The Stern Review, led by the distinguished British economist Nicholas Stern, is the most comprehensive look to date at the economics of climate change. It suggests that, in terms of income, greenhouse gasses are a threat to global growth, but hardly an immediate or catastrophic one. Take the impact of climate change on the developing world. The most depressing forecast in terms of developing country growth in Stern's paper is the "A2 scenario" -- one of a series of economic and greenhouse gas emissions forecasts created for the U.N.'s Intergovernmental Panel on Climate Change (IPCC). It's a model that predicts slow global growth and income convergence (poor countries catching up to rich countries). But even under this model, Afghanistan's GDP per capita climbs sixfold over the next 90 years, India and China ninefold, and Ethiopia's income increases by a factor of 10. Knock off a third for the most pessimistic simulation of the economic impact of climate change suggested by the Stern report, and people in those countries are still markedly better off -- four times as rich for Afghanistan, a little more than six times as rich for Ethiopia.

It's worth emphasizing that the Stern report suggests that the costs of dramatically reducing greenhouse-gas emissions is closer to 1 (or maybe 2) percent of world GDP -- in the region of $600 billion to $1.2 trillion today. The economic case for responding to climate change by pricing carbon and investing in alternate energy sources is a slam dunk. But for all the likelihood that the world will be a poorer, denuded place than it would be if we responded rapidly to reduce greenhouse gases, the global economy is probably not going to collapse over the next century even if we are idiotic enough to delay our response to climate change by a few years. For all the flooding, the drought, and the skyrocketing bills for air conditioning, the economy would keep on expanding, according to the data that Stern uses.

And what about the impact on global health? Suggestions that malaria has already spread as a result of climate change and that malaria deaths will expand dramatically as a result of warming in the future don't fit the evidence of declining deaths and reduced malarial spread over the last century. The authors of a recent study published in the journal Nature conclude that the forecasted future effects of rising temperatures on malaria "are at least one order of magnitude smaller than the changes observed since about 1900 and about two orders of magnitude smaller than those that can be achieved by the effective scale-up of key control measures." In other words, climate change is and will likely remain a small factor in the toll of malaria deaths into the foreseeable future.

What about other diseases? Christian Zimmermann at the University of Connecticut and Douglas Gollin at Williams evaluate the likely impact of a 3-degree rise in temperatures on tropical diseases like dengue fever, which causes half a million cases of hemorrhagic fever and 22,000 deaths each year. Most of the vectors for such diseases -- mosquitoes, biting flies, and so on -- do poorly in frost. So if the weather stays warmer, these diseases are likely to spread. At the same time, there are existing tools to prevent or treat most tropical diseases, and Zimmerman and Gollin suggest "rather modest improvements in protection efficacy could compensate for the consequences of climate change." We can deal with this one.

It's the same with agriculture. Global warming will have many negative (and a few positive) impacts on food supply, but it is likely that other impacts -- both positive, including technological change, and negative, like the exhaustion of aquifers-- will have far bigger effects. The 2001 IPCC report suggested that climate change over the long term could reduce agricultural yields by as much as 30 percent. Compare that with the 90 percent increase in rice yields in Indonesia between 1970 and 2006, for example.

Again, while climate change will make extreme weather events and natural disasters like flooding and hurricanes more common, the negative effect on global quality of life will be reduced if economies continue to grow. That's because, as Matthew Kahn from Tufts University has shown, the safest place to suffer a natural disaster is in a rich country. The more money that people and governments have, the more they can both afford and enforce building codes, land use regulations, and public infrastructure like flood defenses that lower death tolls.

Let's also not forget how human psychology works. Too many environmentalists suggest that dealing with climate change will take immediate and radical retooling of the global economy. It won't. It is affordable, practical, and wouldn't take a revolution. Giving out the message that the only path to sustainability will require medieval standards of living only puts everyone else off. And once you've convinced yourself the world is on an inevitable course to disaster if some corner of the U.S. Midwest is fracked once more or India builds another three coal-fueled power plants, the only logical thing to do when the fracking or the building occurs is to sit back, put your Toms shoes on the couch, and drink micro-brewed herbal tea until civilization collapses. Climate change isn't like that -- or at the very least, isn't like that yet.

So, if you're really just looking for a reason to strap on the "end of the world is nigh" placards and go for a walk, you can find better excuses -- like, say, the threat of global thermonuclear war or a rogue asteroid. The fight to curb greenhouse gas emissions is one for the hard-nosed optimist.

**Alt causes swamp soft power effectiveness**

**Afrasiabi, 7** (PhD and author on Iran (Kaveh, Asia Times, “The illusion of American 'smart power'” http://www.atimes.com/atimes/Middle\_East/IK13Ak02.html)

Over the years, Nye has been anything but shy about claiming credit for his singular contributions to the theories of power, yet much of it is undeserved, as any competent sociologist probing the history of thoughts, running from Max Weber to Antonio Gramsci to Michel Foucault, regarding the subtleties and complexities of power, would readily attest. Nye's theory is an excellent theory that can never be refuted precisely because it cannot be pinned down, its core assumptions **too nebulous** to lend themselves to scientific parsimony. Aside from contradictory notions and simplistic truisms, eg, "strengthen America" by "bolstering its soft power", the report is distinguished by its unabashed glorification of the American military - that has "never been put in the service of building a colonial empire in the manner of European militaries". A little micro-focusing on post September 11, 2001, American interventionism, curiously absent in the whole report, would arguably lead to a diametrically different conclusion. Too much focus on power actually distracts from conscious policies. To be sure, the authors of the "smart power" report are not void of praise for European imperialism, particularly the 19th-century British imperialism that, they claim, contains precious lessons for the "smarter" America of the 21st century. Their point - about "legitimized British power in the eyes of others" - is clearly Eurocentric and blind to the perception of the colonized populations who eventually removed the chains one way or another. But that is a separate story. Tightly packed into the report is the incontrovertible fact that American standing in the world has suffered. Yet, any report focused on "how America wields power in the world" that omits a serious consideration of the **multiple causes, such as** the American quagmire in **Iraq, cannot** possibly **be taken seriously**. The trouble is, however, that both authors of the report are on record supporting the 2003 invasion, although in fairness to Nye, he did criticize it as the "right war at the wrong time", and targeted President George W Bush's failure to "neglect of allies and institutions" that have created a "a sense of illegitimacy". [3] The problem with Nye's approach, however, is the failure to recognize that the "pretextual" war against a sovereign nation in the Middle East, which bypassed the UN, could not possibly have the required legitimacy even if professor Nye and his arsenal of "soft power" pills were in order at the White House; in a word, contrary to Nye, it was the wrong war at the wrong time. Formerly of the US State Department, Francis Fukuyama has agreed that procuring legitimacy has to do with "justice". In other words, an unjust war cannot be called legitimate no matter what the **verbal acrobatics** by the likes of Nye and others, who pay lip service to the "de-legitimating" US Middle East policies, ie, neglecting the Middle East peace process, mentioned only in passing in the above-said report, without due consideration of the serious ramification of such neglects with respects to the threats facing the US today. While side-stepping the Iraq issue with the lame excuse of "broader" perspectives that need to "replace the narrow lens focused on Iraq", the report gives several other reasons for the waning influence of US, ie, reactions to American-led globalization, US's "angry" response to September 11, perception of incompetence, and the side-effects of Cold War success as a lone superpower. Here, the authors **conflate** the **long-term causes of** power **decline with** **the** negative **fall outs of questionable** policies, such as with respect to US **unilateralism**. Regarding the latter, Robert Jervis has correctly pointed at the structural causes of American unilateralism, chiefly the absence of external restraints to American power. In comparison, Nye and Armitage mention other nations resorting to the UN to "constrain" the US power, yet **provide no analysis of why the US has fallen astray from "norm-based internationalism**", the fact that it has to do with power dynamism and America's "totalizing" power grab at the global level, to borrow a term from the French philosophers Gilles Deleuze and Pierre-Felix Guattari. In light of their benign, tolerant attitude toward the exercise of American power, even under the Bush administration, which is said to have used "elements of smart power", Nye and Armitage never really get to the bottom of their own frank admission that today many nations "resent US's unbounded dominance". Instead of drawing from this insight the necessity of a multi-polar world order, the report on "smart power" is keen on maintaining America's "preeminence" in the world and the various ways to ensure it, simultaneously throwing ideas such as "shared leadership" and "accommodating rising powers". True to its contradictory nature, the report on the one hand admits that global politics is not a "zero-sum game" and, yet, in the same breath sends the message that "China can only become preeminent if the US continues to allow its own power of attraction to atrophy". Flawed, inadequate diagnosis of the problems behind America's waning influence **go hand-in-hand with** equally **inadequate prescriptions** for a new US foreign policy, no matter how useful the insights on increasing foreign aid, closing down Guantanamo detention center, focusing on public diplomacy, that is, the usual panoply of "neo-liberal" recipes for action, with the sole exception of omitting the word "interdependence" previously highlighted in Nye's own writings. These **recommendations are not far-reaching enough**, often **tackling the symptoms rather than the real causes** of problems, overall denoting a mindset that reflects policy continuity (with the past and the present) when discontinuity should have the upper hands signaling a real foreign policy reorientation away from the disastrous policies of the Bush presidency. Clearly, such a **reorientation is impossible short of a paradigmatic shift away from the core assumptions of the American hegemonic model** (which are only superficially questioned in this report). Devoid of such a radical shift, the report's "smart power" has nested in it the elements of a vicious policy circle, bound to reintroduce failed US policies under new guises.

**Empirically fails to address specific flashpoints**

**Greenwald ’10** (Abe is policy adviser and online editor with the Foreign Policy Initiative in Washington, July/August http://www.commentarymagazine.com/viewarticle.cfm/the-soft-power-fallacy-15466?page=all

Like Francis Fukuyama’s essay “The End of History,” soft-power theory was a creative and appealing attempt to make sense of America’s global purpose. Unlike Fukuyama’s theory, however, which the new global order seemed to support for nearly a decade, Nye’s was basically refuted by world events in its very first year. In the summer of 1990, a massive contingent of Saddam Hussein’s forces invaded Kuwait and effectively annexed it as a province of Iraq. Although months earlier Nye had asserted that “geography, population, and raw materials are becoming somewhat less important,” the fact is that Saddam invaded Kuwait because of its geographic proximity, insubstantial military, and plentiful oil reserves. Despite Nye’s claim that “the definition of power is losing its emphasis on military force,” months of concerted international pressure, including the passage of a UN resolution, failed to persuade Saddam to withdraw. In the end, only overwhelming American military power succeeded in liberating Kuwait. The American show of force also succeeded in establishing the U.S. as the single, unrivaled post–Cold War superpower. Following the First Gulf War, the 1990s saw brutal acts of aggression in the Balkans: the Bosnian War in 1992 and the Kosovo conflicts beginning in 1998. These raged on despite international negotiations and were quelled only after America took the lead in military actions. It is also worth noting that attempts to internationalize these efforts made them more costly in time, effectiveness, and manpower than if the U.S. had acted unilaterally. Additionally, the 1990s left little mystery as to how cataclysmic events unfold when the U.S. declines to apply traditional tools of power overseas. In April 1994, Hutu rebels began the indiscriminate killing of Tutsis in Rwanda. As the violence escalated, the United Nations’s peacekeeping forces stood down so as not to violate a UN mandate prohibiting intervention in a country’s internal politics. Washington followed suit, refusing even to consider deploying forces to East-Central Africa. By the time the killing was done, in July of the same year, Hutus had slaughtered between half a million and 1 million Tutsis. And in the 1990s, Japan’s economy went into its long stall, making the Japanese model of a scaled down military seem rather less relevant. All this is to say that during the presidency of Bill Clinton, Nye’s “intangible forms of power” proved to hold little sway in matters of statecraft, while modes of traditional power remained as critical as ever in coercing other nations and affirming America’s role as chief protector of the global order.

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## Add ons

**Extinction impossible and ahistorical**

**Posner 5** (Richard A., Judge U.S. Court of Appeals 7th Circuit, Professor Chicago School of Law, January 1, 2005, Skeptic, Altadena, CA, Catastrophe: Risk and Response, http://goliath.ecnext.com/coms2/gi\_0199-4150331/Catastrophe-the-dozen-most-significant.html#abstract)

Yet the fact that Homo sapiens has managed to survive every disease to assail it in the 200,000 years or so of its existence is a source of genuine comfort, at least if the focus is on extinction events. There have been enormously destructive plagues, such as the Black Death, smallpox, and now AIDS, but **none has come close** to destroying the entire human race. There is a biological reason. Natural selection favors germs of **limited lethality**; they are fitter in an evolutionary sense because their genes are more likely to be spread if the germs do not kill their hosts too quickly. The AIDS virus is an example of a lethal virus, wholly natural, that by lying dormant yet infectious in its host for years maximizes its spread. Yet there is no danger that AIDS will destroy the entire human race. The likelihood of a natural pandemic that would cause the extinction of the human race is probably even less today than in the past (except in prehistoric times, when people lived in small, scattered bands, which would have limited the spread of disease), despite wider human contacts that make it more difficult to localize an infectious disease. The reason is improvements in medical science. But the comfort is a small one. Pandemics can still impose enormous losses and resist prevention and cure: the lesson of the AIDS pandemic. And there is always a lust time. That the human race has not yet been destroyed by germs created or made more lethal by modern science, as distinct from completely natural disease agents such as the flu and AIDS viruses, is even less reassuring. We haven't had these products long enough to be able to infer survivability from our experience with them. A recent study suggests that as immunity to smallpox declines because people am no longer being vaccinated against it, monkeypox may evolve into "a successful human pathogen," (9) yet one that vaccination against smallpox would provide at least some protection against; and even before the discovery of the smallpox vaccine, smallpox did not wipe out the human race. What is new is the possibility that science, bypassing evolution, will enable monkeypox to be "juiced up" through gene splicing into a far more lethal pathogen than smallpox ever was.

**Food shortages won’t cause war**

**Allouche 11,** research Fellow – water supply and sanitation @ Institute for Development Studies, frmr professor – MIT

(Jeremy, “The sustainability and resilience of global water and food systems: Political analysis of the interplay between security, resource scarcity, political systems and global trade,” Food Policy, Vol. 36 Supplement 1, p. S3-S8, January)

The question of resource scarcity has led to many debates on whether scarcity (whether of food or water) will lead to conflict and war. The underlining reasoning behind most of these discourses over food and water wars comes from the Malthusian belief that there is an imbalance between the economic availability of natural resources and population growth since while food production grows linearly, population increases exponentially. Following this reasoning, neo-Malthusians claim that finite natural resources place a strict limit on the growth of human population and aggregate consumption; if these limits are exceeded, social breakdown, conflict and wars result. Nonetheless, it seems that most empirical studies do not support any of these neo-Malthusian arguments. Technological change and greater inputs of capital have dramatically increased labour productivity in agriculture. More generally, the neo-Malthusian view has suffered because during the last two centuries humankind has breached many resource barriers that seemed unchallengeable. Lessons from history: alarmist scenarios, resource wars and international relations In a so-called age of uncertainty, a number of alarmist scenarios have linked the increasing use of water resources and food insecurity with wars. The idea of water wars (perhaps more than food wars) is a dominant discourse in the media (see for example Smith, 2009), NGOs (International Alert, 2007) and within international organizations (UNEP, 2007). In 2007, UN Secretary General Ban Ki-moon declared that ‘water scarcity threatens economic and social gains and is a potent fuel for wars and conflict’ (Lewis, 2007). Of course, this type of discourse has an instrumental purpose; security and conflict are here used for raising water/food as key policy priorities at the international level. In the Middle East, presidents, prime ministers and foreign ministers have also used this bellicose rhetoric. Boutrous Boutros-Gali said; ‘the next war in the Middle East will be over water, not politics’ (Boutros Boutros-Gali in Butts, 1997, p. 65). The question is not whether the sharing of transboundary water sparks political tension and alarmist declaration, but rather to what extent water has been a principal factor in international conflicts. The evidence seems quite weak. Whether by president Sadat in Egypt or King Hussein in Jordan, none of these declarations have been followed up by military action. The governance of transboundary water has gained increased attention these last decades. This has a direct impact on the global food system as water allocation agreements determine the amount of water that can used for irrigated agriculture. The likelihood of conflicts over water is an important parameter to consider in assessing the stability, sustainability and resilience of global food systems. None of the various and extensive databases on the causes of war show water as a casus belli. Using the International Crisis Behavior (ICB) data set and supplementary data from the University of Alabama on water conflicts, Hewitt, Wolf and Hammer found only seven disputes where water seems to have been at least a partial cause for conflict (Wolf, 1998, p. 251). In fact, about 80% of the incidents relating to water were limited purely to governmental rhetoric intended for the electorate (Otchet, 2001, p. 18). As shown in The Basins At Risk (BAR) water event database, more than two-thirds of over 1800 water-related ‘events’ fall on the ‘cooperative’ scale (Yoffe et al., 2003). Indeed, if one takes into account a much longer period, the following figures clearly demonstrate this argument. According to studies by the United Nations Food and Agriculture Organization (FAO), organized political bodies signed between the year 805 and 1984 more than 3600 water-related treaties, and approximately 300 treaties dealing with water management or allocations in international basins have been negotiated since 1945 (FAO, 1978 and FAO, 1984). The fear around water wars have been driven by a Malthusian outlook which equates scarcity with violence, conflict and war. There is however no direct correlation between water scarcity and transboundary conflict. Most specialists now tend to agree that the major issue is not scarcity per se but rather the allocation of water resources between the different riparian states (see for example Allouche, 2005, Allouche, 2007 and [Rouyer, 2000] ). Water rich countries have been involved in a number of disputes with other relatively water rich countries (see for example India/Pakistan or Brazil/Argentina). The perception of each state’s estimated water needs really constitutes the core issue in transboundary water relations. Indeed, whether this scarcity exists or not in reality, perceptions of the amount of available water shapes people’s attitude towards the environment (Ohlsson, 1999). In fact, some water experts have argued that scarcity drives the process of co-operation among riparians (Dinar and Dinar, 2005 and Brochmann and Gleditsch, 2006). In terms of international relations, the threat of water wars due to increasing scarcity does not make much sense in the light of the recent historical record. Overall, the water war rationale expects conflict to occur over water, and appears to suggest that violence is a viable means of securing national water supplies, an argument which is highly contestable. The debates over the likely impacts of climate change have again popularised the idea of water wars. The argument runs that climate change will precipitate worsening ecological conditions contributing to resource scarcities, social breakdown, institutional failure, mass migrations and in turn cause greater political instability and conflict (Brauch, 2002 and Pervis and Busby, 2004). In a report for the US Department of Defense, Schwartz and Randall (2003) speculate about the consequences of a worst-case climate change scenario arguing that water shortages will lead to aggressive wars (Schwartz and Randall, 2003, p. 15). Despite growing concern that climate change will lead to instability and violent conflict, the evidence base to substantiate the connections is thin ( [Barnett and Adger, 2007] and Kevane and Gray, 2008).

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Kritik outweighs and turs the case –

#### First, structural violence – the aff sanitizes imperial violence by legitimizing the façade of “rule of law.” It creates the conditions for intervention because those countries are “devoid of rule of law” – that allows “ever deepening militarization” according to Bacevich. There’s also a value to life impact – that’s an a priori issue – this logic allows the government to view certain bodies as disposable - creates priming that psychologically structures escalation

Scheper-Hughes and Bourgois ‘4(Prof of Anthropology @ Cal-Berkely; Prof of Anthropology @ UPenn) (Nancy and Philippe, Introduction: Making Sense of Violence, in Violence in War and Peace, pg. 19-22)

This large and at first sight “messy” Part VII is central to this anthology’s thesis. It encompasses everything from the routinized, bureaucratized, and utterly banal violence of children dying of hunger and maternal despair in Northeast Brazil (Scheper-Hughes, Chapter 33) to elderly African Americans dying of heat stroke in Mayor Daly’s version of US apartheid in Chicago’s South Side (Klinenberg, Chapter 38) to the racialized class hatred expressed by British Victorians in their olfactory disgust of the “smelly” working classes (Orwell, Chapter 36). In these readings violence is located in the symbolic and social structures that overdetermine and allow the criminalized drug addictions, interpersonal bloodshed, and racially patterned incarcerations that characterize the US “inner city” to be normalized (Bourgois, Chapter 37 and Wacquant, Chapter 39). Violence also takes the form of class, racial, political self-hatred and adolescent self-destruction (Quesada, Chapter 35), as well as of useless (i.e. preventable), rawly embodied physical suffering, and death (Farmer, Chapter 34). Absolutely central to our approach is a blurring of categories and distinctions between wartime and peacetime violence. Close attention to the “little” violences produced in the structures, habituses, and mentalites of everyday life shifts our attention to pathologies of class, race, and gender inequalities. More important, it interrupts the voyeuristic tendencies of “violence studies” that risk publicly humiliating the powerless who are often forced into complicity with social and individual pathologies of power because suffering is often a solvent of human integrity and dignity. Thus, in this anthology we are positing a violence continuum comprised of a multitude of “small wars and invisible genocides” (see also Scheper- Hughes 1996; 1997; 2000b) conducted in the normative social spaces of public schools, clinics, emergency rooms, hospital wards, nursing homes, courtrooms, public registry offices, prisons, detention centers, and public morgues. The violence continuum also refers to the ease with which humans are capable of reducing the socially vulnerable into expendable nonpersons and assuming the license - even the duty - to kill, maim, or soul-murder. We realize that in referring to a violence and a genocide continuum we are flying in the face of a tradition of genocide studies that argues for the absolute uniqueness of the Jewish Holocaust and for vigilance with respect to restricted purist use of the term genocide itself (see Kuper 1985; Chaulk 1999; Fein 1990; Chorbajian 1999). But we hold an opposing and alternative view that, to the contrary, it is absolutely necessary to make just such existential leaps in purposefully linking violent acts in normal times to those of abnormal times. Hence the title of our volume: Violence in War and in Peace. If (as we concede) there is a moral risk in overextending the concept of “genocide” into spaces and corners of everyday life where we might not ordinarily think to find it (and there is), an even greater risk lies in failing to sensitize ourselves, in misrecognizing protogenocidal practices and sentiments daily enacted as normative behavior by “ordinary” good-enough citizens. Peacetime crimes, such as prison construction sold as economic development to impoverished communities in the mountains and deserts of California, or the evolution of the criminal industrial complex into the latest peculiar institution for managing race relations in the United States (Waquant, Chapter 39), constitute the “small wars and invisible genocides” to which we refer. This applies to African American and Latino youth mortality statistics in Oakland, California, Baltimore, Washington DC, and New York City. These are “invisible” genocides not because they are secreted away or hidden from view, but quite the opposite. As Wittgenstein observed, the things that are hardest to perceive are those which are right before our eyes and therefore taken for granted. In this regard, Bourdieu’s partial and unfinished theory of violence (see Chapters 32 and 42) as well as his concept of misrecognition is crucial to our task. By including the normative everyday forms of violence hidden in the minutiae of “normal” social practices - in the architecture of homes, in gender relations, in communal work, in the exchange of gifts, and so forth - Bourdieu forces us to reconsider the broader meanings and status of violence, especially the links between the violence of everyday life and explicit political terror and state repression, Similarly, Basaglia’s notion of “peacetime crimes” - crimini di pace - imagines a direct relationship between wartime and peacetime violence. Peacetime crimes suggests the possibility that war crimes are merely ordinary, everyday crimes of public consent applied systematic- ally and dramatically in the extreme context of war. Consider the parallel uses of rape during peacetime and wartime, or the family resemblances between the legalized violence of US immigration and naturalization border raids on “illegal aliens” versus the US government- engineered genocide in 1938, known as the Cherokee “Trail of Tears.” Peacetime crimes suggests that everyday forms of state violence make a certain kind of domestic peace possible. Internal “stability” is purchased with the currency of peacetime crimes, many of which take the form of professionally applied “strangle-holds.” Everyday forms of state violence during peacetime make a certain kind of domestic “peace” possible. It is an easy-to-identify peacetime crime that is usually maintained as a public secret by the government and by a scared or apathetic populace. Most subtly, but no less politically or structurally, the phenomenal growth in the United States of a new military, postindustrial prison industrial complex has taken place in the absence of broad-based opposition, let alone collective acts of civil disobedience. The public consensus is based primarily on a new mobilization of an old fear of the mob, the mugger, the rapist, the Black man, the undeserving poor. How many public executions of mentally deficient prisoners in the United States are needed to make life feel more secure for the affluent? What can it possibly mean when incarceration becomes the “normative” socializing experience for ethnic minority youth in a society, i.e., over 33 percent of young African American men (Prison Watch 2002). In the end it is essential that we recognize the existence of a genocidal capacity among otherwise good-enough humans and that we need to exercise a defensive hypervigilance to the less dramatic, permitted, and even rewarded everyday acts of violence that render participation in genocidal acts and policies possible (under adverse political or economic conditions), perhaps more easily than we would like to recognize. Under the violence continuum we include, therefore, all expressions of radical social exclusion, dehumanization, depersonal- ization, pseudospeciation, and reification which normalize atrocious behavior and violence toward others. A constant self-mobilization for alarm, a state of constant hyperarousal is, perhaps, a reasonable response to Benjamin’s view of late modern history as a chronic “state of emergency” (Taussig, Chapter 31). We are trying to recover here the classic anagogic thinking that enabled Erving Goffman, Jules Henry, C. Wright Mills, and Franco Basaglia among other mid-twentieth-century radically critical thinkers, to perceive the symbolic and structural relations, i.e., between inmates and patients, between concentration camps, prisons, mental hospitals, nursing homes, and other “total institutions.” Making that decisive move to recognize the continuum of violence allows us to see the capacity and the willingness - if not enthusiasm - of ordinary people, the practical technicians of the social consensus, to enforce genocidal-like crimes against categories of rubbish people. There is no primary impulse out of which mass violence and genocide are born, it is ingrained in the common sense of everyday social life. The mad, the differently abled, the mentally vulnerable have often fallen into this category of the unworthy living, as have the very old and infirm, the sick-poor, and, of course, the despised racial, religious, sexual, and ethnic groups of the moment. Erik Erikson referred to “pseudo- speciation” as the human tendency to classify some individuals or social groups as less than fully human - a prerequisite to genocide and one that is carefully honed during the unremark- able peacetimes that precede the sudden, “seemingly unintelligible” outbreaks of mass violence. Collective denial and misrecognition are prerequisites for mass violence and genocide. But so are formal bureaucratic structures and professional roles. The practical technicians of everyday violence in the backlands of Northeast Brazil (Scheper-Hughes, Chapter 33), for example, include the clinic doctors who prescribe powerful tranquilizers to fretful and frightfully hungry babies, the Catholic priests who celebrate the death of “angel-babies,” and the municipal bureaucrats who dispense free baby coffins but no food to hungry families. Everyday violence encompasses the implicit, legitimate, and routinized forms of violence inherent in particular social, economic, and political formations. It is close to what Bourdieu (1977, 1996) means by “symbolic violence,” the violence that is often “nus-recognized” for something else, usually something good. Everyday violence is similar to what Taussig (1989) calls “terror as usual.” All these terms are meant to reveal a public secret - the hidden links between violence in war and violence in peace, and between war crimes and “peace-time crimes.” Bourdieu (1977) finds domination and violence in the least likely places - in courtship and marriage, in the exchange of gifts, in systems of classification, in style, art, and culinary taste- the various uses of culture. Violence, Bourdieu insists, is everywhere in social practice. It is misrecognized because its very everydayness and its familiarity render it invisible. Lacan identifies “rneconnaissance” as the prerequisite of the social. The exploitation of bachelor sons, robbing them of autonomy, independence, and progeny, within the structures of family farming in the European countryside that Bourdieu escaped is a case in point (Bourdieu, Chapter 42; see also Scheper-Hughes, 2000b; Favret-Saada, 1989). Following Gramsci, Foucault, Sartre, Arendt, and other modern theorists of power-vio- lence, Bourdieu treats direct aggression and physical violence as a crude, uneconomical mode of domination; it is less efficient and, according to Arendt (1969), it is certainly less legitimate. While power and symbolic domination are not to be equated with violence - and Arendt argues persuasively that violence is to be understood as a failure of power - violence, as we are presenting it here, is more than simply the expression of illegitimate physical force against a person or group of persons. Rather, we need to understand violence as encompassing all forms of “controlling processes” (Nader 1997b) that assault basic human freedoms and individual or collective survival. Our task is to recognize these gray zones of violence which are, by definition, not obvious. Once again, the point of bringing into the discourses on genocide everyday, normative experiences of reification, depersonalization, institutional confinement, and acceptable death is to help answer the question: What makes mass violence and genocide possible? In this volume we are suggesting that mass violence is part of a continuum, and that it is socially incremental and often experienced by perpetrators, collaborators, bystanders - and even by victims themselves - as expected, routine, even justified. The preparations for mass killing can be found in social sentiments and institutions from the family, to schools, churches, hospitals, and the military. They harbor the early “warning signs” (Charney 1991), the “priming” (as Hinton, ed., 2002 calls it), or the “genocidal continuum” (as we call it) that push social consensus toward devaluing certain forms of human life and lifeways from the refusal of social support and humane care to vulnerable “social parasites” (the nursing home elderly, “welfare queens,” undocumented immigrants, drug addicts) to the militarization of everyday life (super-maximum-security prisons, capital punishment; the technologies of heightened personal security, including the house gun and gated communities; and reversed feelings of victimization).

#### Third, the executive will redefine the law to violate and ignore the plan

Pollack, 13 -- MSU Guggenheim Fellow and professor of history emeritus [Norman, "Drones, Israel, and the Eclipse of Democracy," Counterpunch, 2-5-13, www.counterpunch.org/2013/02/05/drones-israel-and-the-eclipse-of-democracy/, accessed 9-1-13, mss]

Bisharat first addresses the transmogrification of international law by Israel’s military lawyers. We might call this damage control, were it not more serious. When the Palestinians first sought to join the I.C.C., and then, to receive the UN’s conferral of nonmember status on them, Israel raised fierce opposition. Why? He writes: “Israel’s frantic opposition to the elevation of Palestine’s status at the United Nations was motivated precisely by the fear that it would soon lead to I.C.C. jurisdiction over Palestinian claims of war crimes. Israeli leaders are unnerved for good reason. The I.C.C. could prosecute major international crimes committed on Palestinian soil anytime after the court’s founding on July 1, 2002.” In response to the threat, we see the deliberate reshaping of the law: Since 2000, “the Israel Defense Forces, guided by its military lawyers, have attempted to **remake the laws** of war by consciously violating them and then **creating new legal concepts to provide juridical cover** for their misdeeds.” (Italics, mine) In other words, habituate the law to the existence of atrocities; in the US‘s case, targeted assassination, repeated often enough, seems permissible, indeed clever and wise, as pressure is steadily applied to the laws of war. Even then, “collateral damage” is seen as unintentional, regrettable, but hardly prosecutable, and in the current atmosphere of complicity and desensitization, never a war crime. (**Obama is hardly a novice at** this game of **stretching the law to suit the convenience of**, shall we say, the **national interest**? In order to ensure the distortion in counting civilian casualties, which would bring the number down, as Brennan with a straight face claimed, was “zero,” the Big Lie if ever there was one, placing him in distinguished European company, Obama **redefined the meaning** of “combatant” status to be any male of military age throughout the area (which we) declared a combat zone, which noticeably led to a higher incidence of sadism, because it allowed for “second strikes” on funerals—the assumption that anyone attending must be a terrorist—and first responders, those who went to the aid of the wounded and dying, themselves also certainly terrorists because of their rescue attempts.) These guys play hardball, perhaps no more than in using—by report—the proverbial baseball cards to designate who would be next on the kill list. But funerals and first responders—verified by accredited witnesses–seems overly much, and not a murmur from an adoring public.

#### [OPTIONAL] Fifth, only we can access offense – antiepistemologies created by the state plague their scholarship

Pugliese, 13 -- Macquarie University Cultural Studies professor

[Joseph, Macquarie University MMCCS (Media, Music, Communication and Cultural Studies) research director, *State Violence and the Execution of Law: Biopolitcal Caesurae of Torture, Black Sites, Drones,* 3-15-13, ebook accessed via EBL on 8-30-13, mss]

A constitutively incomplete scholarship: redactions, foreclosures, fragments

The work that unfolds in the chapters that follow is inscribed by a constitutively **incomplete** **scholarship**. This incompleteness is not due to the standard limitations imposed by time, word length and the other practical exigencies that impact on the process of scholarly research. Rather, this incompleteness is constitutive in quite another way. It is an incompleteness determined by the power of the state to impose fundamental omissions of information through the redaction of key documents, through the legal silencing of its agents and through the literal obliteration of evidence. **These** are all **techniques** of foreclosure that **establish the** **impossibility of disclosure**. In rhetorical terms, the redactions that score the legal texts that I examine operate as aposiopetic ﬁgures; ﬁgures that, in keeping with Greek etymology of the term, demand the keeping of silence. In their liquidation of linguistic meaning, they establish voids of signiﬁcation. Through the process of institutionalized censorship, they order into silence the voices of those subjects who might proceed to name the violence they perpetrated, while also nullifying the voices of the tortured. As rectilinear bars of blackness, the redactions that score the state’s declassiﬁed texts occlude the victims of state violence even as they neatly geometrize the disorder of torn flesh and violated bodies. The slabs of redaction encrypt the disappeared victims of torture in their textual black coffins. As such, they graphically exemplify the obliterative violence of law. These aposiopetic tracts are the textual and symbolic equivalent of the physical violence that is exercised by the state in order to silence its captives. Perhaps the most graphic incarnation of this transpired at Guantanamo, where a detainee, after an interrogation session, ‘began to yell (in Arabic): “Resist, Resist with all your might.”’102 The Interrogation Control Element Chief for Joint Task Force 170# GTMO ordered the detainee to be silenced with duct tape. In their Summarized Witness Statement, an unnamed agent recounts what they witnessed: "˜When I arrived at the interrogation room. I observed six or seven soldiers (or persons I believed were soldiers) laughing and pointing at something inside the room. When I looked inside I noticed a detainee with his entire head covered in duct tape . . . When I asked how he planned to take the tape off without hurting the detainee (the detainee had a beard and longer hair) [redacted] just laughed" The reduction of the detainee to a figure of bondage - short-shackled to the floor and manacled - is not adequate in confirming his status as captive. His face and voice, evidence of his human status, must be physically redacted. The taping of his entire head transmutes him into a faceless papier-machê mannequin. Even the most minimal sign of resistance, such as the exercise of the voice, IIILISI be subju- gated. The corporal economies of torture oscillate between the exercise of violence in order to extort confessions from broken bodies finally rendered docile and the exercise of violence to silence those insurgent bodies that refuse the order to be silent. The duct taping of the head of the detainee emblematizes the deployment of two violent modalities of torture: instrumental and gratuitous. Instrumental violence is produced by the direct application of tools and technologies - such as cables, pliers. electrodes and so on ~ onto the body of the victim in order to inflict pain. In this case the duct taping of the detainee's entire head directly produces a terrifying sense of asphyxiation. Gratuitous violence is a type of supplementary violence that results indirectly, after the fact of the application of instrumental violence. In this instance, the instrumentalized application of duct tape was principally driven by the desire to silence and subjugate the detainee. The ripping off of the duct tape and the tearing of his hair and beard will generate a violence that is wanton, augmenting the pain of having one's facial apertures sealed up. The end result is to confirm the detainee's status as subjugated object of violence. The US government’s power to withhold or destroy information runs the full gamut of censorial practices -- from the ludicrous to the indefensible. The CIA, for example, has exercised an impressive commitment to linguistic probity by insisting on the redaction of such disturbing terms as ‘rot,’ ‘shithole’ and ‘urinal’ from the testimony of one its former interrogators.104 It has also overseen the wholesale destruction of 92 videos that document the torture practices inflicted on their victims; torture practices that allegedly ‘went even beyond those approved by the expansive Yoo and Bybee Torture Memos.’105 **These censorial practices have fundamentally determined the very material conditions of possibility of** my **research**. They have produced a complex textual field inscribed by gaps, silences and the contingent fragments of knowledge that have managed to enter the public domain despite the censorial power of the state. And I refer here to the extraordinary work of individuals - such as Bradley Manning, who is himself now a victim of the state`s punitive regime of cruel and degrading punishment - or organizations, such as WikiLeaks, that have defied the censorial power of the state in order to make public texts that document the full extent of the state's violent practices and that compel its witnesses to call it to account. The work of these whistle- blowers and activists evidences the fact that the state is not an impervious monolith of repressive power but that, on the contrary, much as it strives to be unilateral in its actions and monologic in its enunciations, the state cannot completely master its heterogeneous agents or silence its heteroglossic voices. In the chapters that follow, I draw heavily on the texts that document the operations of the state in executing and exceeding its laws. I also, however, take the time to reflect critically on the materiality of the absences that mark my field of study by focusing specifically on the redactions that score a number of the key state documents to which I refer. These redactions, as I argue in Chapter 5, visibly signify both the sovereign power of the state and its insecurity. I read these redactions as techniques designed to manage, control and, where necessary, to obliterate knowledge altogether. In effect, these **redactions** function to **constitute the opposite of epistemology: they generate official systems of unknowing, anti-epistemologies that consign the reading subject to** **ignorance and unknowledge**. Faced with these lacunae, I attempt to unsettle the anti-epistemological practices of redaction by reading the very processes of redaction as symbolic instantiations of state violence: they reproduce, textually, their own figural black sites that effectively occlude the names of the agents responsible for the torture practices, even as they also become the black holes to which are dispatched the victims of such practices. Against the grain, then, I read these black sites of redaction as the textual and symbolic equivalent to the material black site prisons run by the state. The anti-epistemological violence of these sites of redaction works in tandem with the ontological violence that the state visits upon its embodied subjects.

## A2 perm

#### 3.) Masking disad to the perm – zones of in distinction between “citizen” and “noncitizen” targets justifies violence and homo sacer

Van Veeren 13, Elspeth Van Veeren, from the Panel of Visualizing Security: Images and the Meditation of Threats, Center for International and Security Studies, and postdoctoral research fellow in International Relations at the University of Sussex, Materiality, and Bodies, “On the Limits of the Visual to ‘Speak Security’ or There is More Than One Way to Imagine a Drone,” April 5, 2013, ISA Annual Conventions, Ebsco

\*\*\*gendered language not endorsed

These figures and statistics work in the same way as Bridle’s drone vision’ to produce a sense that everything is knowable from the perspective of the analyst, Researcher, member of the public at large. But statistics and graphs (and related infographics) are also visual practices that seek to deliver a sense of certitude and objectivity through technology. They are biopolitical, a technic of power, As much as drones are, they are also a technological imaginary. Like drone vision, statistics and graphs seem to offer an anesthetic experience of violence, one which is calculating, rational, and irrefutable. Categories are clear and definable: civilians and combatants. children and adult. Like official representations of drone use. drone statistics turn around a visual representation of accuracy Within the frame used by the Bureau of Investigative Journalism (and their colleagues at Pitch Interactive who recently worked to develop an animated and interactive infographic on death counts and drone strikes21), for example. these statistics and graphs as imaginaries of drone warfare become a central means to present drones as ‘dirty’ weapons. as weapons that kill civilians as well as combatants. Whereas official constructions of the ‘shadow war’ (and before that the Global War on Terror) relies on a projection of security as ‘clean’, these statistics look to trouble that message of accuracy with their own. In a similar way, capturing this ‘dronestream’ is a twitter feed set up and operated by Josh Begley.22 Begley tells the story of the ‘drone war’ and renders drones visible by tweeting every drone strike in Yemen, Somalia and Pakistan in the last ten years, linking it to the report of casualties. Presenting the rhythm of these strikes, with a different kind of visuality or imaginary than that of ‘drone vision’, Begley’ s tweets make visible the mounting death toll of drones, and renders visible in particular the ‘double tap’ strategy used by US forces (an illegal practice under international law whereby a first strike follows the second to target any assistance arriving at the scene). The use of statistics, graphs and the ‘dronestream’ to imagine drones captures the scale of the shadow war. Collated and visually refrained, a steady trickle of information on drone strikes becomes a torrent that seeks to disrupt the clean imagery of war.13These statistics, but more importantly the different forms of visualizing these statistics as communicative forms, have been used so extensively because the effectiveness and precision of drones is at the heart of the debate over their growing use (along with transparency/accountability and proliferation):4 Drones are being sold as clean warfare (see for example Plaw and Fricker (2012) and how they make the case for drones as precise) and these statistics seek to disrupt that by suggesting that the result is not clean. The suggestion is that drones are risk-transfer weapons. Nevertheless, this strategy does produce categories and make distinctions: between combatant and civilians, between men and ‘women and children’. with an accompanying politics and ethics. This occurs in terms of drawing boundaries between acceptable violence and unacceptable violence (and therefore legitimization certain forms of warfare. As Maja Zehfuss (2012) and Helen Kinsella (2012) argue. to maintain the distinction between legitimate violence and illegitimate violence(clean and dirty war). the ‘principle of distinction’ is to continue to justify war and paradoxically lead to more unethical practices. including civilian deaths. In the case of drones. the US has simply redeemed all males over the age of 13 as combatants.25 Second. modern warfare. weaponry and technological practices also make counting both easier and harder. It may be increasingly easy to conduct battle damage assessments’ even from 5.000 feet and determine body counts (while forensic science means that the remains of war are more easily identified). modern mechanised warfare is also more likely to make bodies harder to count by obliterating them (Hawley. 2005). Uncertainty is a quality of modern warfare. both through its increased visibilities and invisibilities.

#### 5.) These sanitizing myths are absolutely crucial to the maintenance of imperialism

Bacevich, 5 -- Boston University international relations professor

[A. J., retired career officer in the United States Army, former director of Boston University's Center for International Relations (from 1998 to 2005), The New American Militarism: How Americans Are Seduced by War, 2005 accessed 9-4-13, mss]

The new American militarism draws much of its sustaining force from myth-stories created to paper over incongruities and contradictions that pervade the American way of life. The exercise of global power by the United States aggravates these incongruities. Americans want to feel secure, in their homes and where they work. Rather than safety, however, the possession of military might without precedent has in practice yielded a heightened sense of vulnerability. Americans see themselves as an idealistic people. But the dispatch of U.S. forces to oppose tyranny and create the conditions for peace does not evoke accolades from abroad. Instead, it fuels anti-Americanism and generates suspicion of our motives and intentions. Americans believe in democracy. But their democracy works such that the divide between rich and poor grows ever wider. In America, the win- ners control an ever-increasing percentage of the nation's wealth. To be a member of the upper class is to have privileges, among them ensuring that it's someone else's kid who is getting shot at in Iraq or Afghanistan. These are hard, uncomfortable truths, for which the existing political system does not provide an easily available remedy. So Americans concoct stories to make such truths more palatable. During the past quarter century, American politicians with their eyes firmly fixed on the main chance, assisted by purveyors of popular culture with a well-honed instinct for what sells, have promulgated a host of such stories. One result has been to contrive a sentimentalized version of the American military experience and an idealized image of the American soldier. These myths make an essential contribution to the new American militarism. They create an apparently seamless historical narrative of American soldiers as liberators, with Operation Iraqi Freedom in March zoo; becoming a sequel to Operation Overlord in June 1944. They divert attention from the reality of U.S. military policy, now having less to do with national defense than with imperial policing. They help to sustain the willingness of American soldiers to shoulder their frequently thankless and seemingly endless burdens in places like the Balkans, Central Asia, and the Persian Gulf. Above all, they function as a salve for what remains of the American conscience. Myths offer reassurance that America remains, as Ronald Rea- gan put it, "still a land of heroes with all the courage and love of freedom that ever was before." They enable us to sustain the belief that the soldiers whom we hire to do the nation's dirty work but whom we do not know are, in fact, bringing peace and light to troubled corners of the earth rather than pushing ever outward the perimeter of an American empire.

## Link

#### Framing warming as an existential threat causes extinction

**Brzoska 8** (Michael Institute for Peace Research and Security Policy at the University of Hamburg, “The securitization of climate change and the power of conceptions of security,” Paper prepared for the International Studies Association Convention 2008)

In the literature on securitization it is implied that when a problem is securitized it is difficult to limit this to an increase in attention and resources devoted to mitigating the problem (Brock 1997, Waever 1995). Securitization regularly leads to all-round ‘**exceptionalism’** in dealing with the issue as well as to a shift in institutional localization towards ‘security experts’ (Bigot 2006), such as the **military** and police. Methods and instruments associated with these security organizations – such as more use of arms, force and violence – will gain in importance in the discourse on ‘what to do’. A good example of securitization was the period leading to the Cold War (Guzzini 2004 ). Originally a political conflict over the organization of societies, in the late 1940s, the East-West confrontation became an existential conflict that was overwhelmingly addressed with military means, including the potential annihilation of humankind. Efforts to alleviate the political conflict were, throughout most of the Cold War, secondary to improving military capabilities. Climate change could meet a similar fate. An essentially political problem concerning the distribution of the costs of prevention and adaptation and the losses and gains in income arising from change in the human environment might be perceived as **intractable**, thus **necessitating the build-up** of military and police forces to prevent it from becoming a **major security problem**. The portrayal of climate change as a security problem could, in particular, cause the richer countries in the **global North**, which are less affected by it, to strengthen measures aimed at protecting them from the **spillover** of **violent conflict** from the poorer countries in the **global South** that will be most affected by climate change. It could also be used by major powers as a **justification** for improving their military **preparedness** against the other major powers, thus leading to **arms races.**

#### Their accidents and miscalc args frames Western nations as rational actors, but actors in the East inherently become dangerous to them.

#### Gusterson ’99 (Gusterson, Hugh,”Nuclear Weapons and the Other in Western Imagination” Cultural Anthropology, 14.1 Feb 1999 http://www.jstor.org/stable/656531 Aug 17/2009, p.120-21)NAR

The discourse on proliferation assumes that the superpowers' massive interlocking arsenals of highly accurate MIRVed missiles deployed on hair-trigger alert and designed with first-strike capability backed by global satellite capability was stable and that the small, crude arsenals of new nuclear nations would be unstable, but one could quite plausibly argue the reverse. Indeed, as mentioned above, by the 1980s a number of analysts in the West were concerned that the MIRVing of missiles and the accuracy of new guidance systems were generating increasing pressure to strike first in a crisis. Although the strategic logic might be a little different, they saw temptations to preempt at the high end of the nuclear social system as well as at the low end (Aldridge 1983; Gray and Payne 1980; Scheer 1982). There were also concerns (explored in more detail below) that the complex computerized early-warning systems with which each superpower protected its weapons were generating false alarms that might lead to accidental war (Blair 1993; Sagan 1993). Thus one could argue-as former Secretary of Defense Robert McNamara (1986) and a number of others have-that deterrence between the United States and Russia would be safer and more stable if each side replaced their current massive strategic arsenals with a small force of about one hundred nuclear weapons-about the size India's nu-clear stockpile is believed to be, as it happens. Further, Bruce Blair (Blair, Feiveson, and von Hippel 1997), a former missile control officer turned strategic analyst, and Stansfield Turner (1997), a former CIA director, have suggested that the readiness posture of American and Russian nuclear forces makes them an accident waiting to happen. The United States and Russia, they argue, would be safer if they stored their warheads separate from their delivery vehicles-as, it so happens, India and Pakistan do.1" In the words of Scott Sagan, a political scientist and former Pentagon official concerned about U.S. nuclear weapons safety, The United States should not try to make new nuclear nations become like the superpowers during the Cold War, with large arsenals ready to launch at a moment's notice for the sake of deterrence, instead, for the sake of safety, the United States and Russia should try to become more like some of the nascent nuclear states, maintaining very small nuclear capabilities, with weapons components separated and located apart from the delivers systems, and with civilian organizations controlling the warheads. [Sagan 1995:90-91 ]12 Given, as I have shown, that the crisis stability of large nuclear arsenals can also be questioned and that it is not immediately self-evident why the leader of, say, India today should feel any more confident that he would not lose a city or two in a preemptive strike on Pakistan than his U.S. counterpart would in attacking Russia, I want to suggest that an argument that appears on the surface to be about numbers and configurations of weapons is really, when one looks more closely, about the psychology and culture of people. Put simply, the dominant discourse assumes that leaders in the Third World make decisions differently than their counterparts in the West: that they are more likely to take risks, gambling millions of lives, or to make rash and irresponsible calculations.

#### Policy regarding Iran is warped by securitization- ensures violence and stereotype replication

**- Izadi ‘7** (Foad Izadi & Hakimeh Saghaye-Biria, @ LSU Baton Rouge, ‘7 [Journal of Communication Inquiry 31.2, “A Discourse Analysis of Elite merican Newspaper Editorials,” p. sage]

**U.S. policy makers and strategists have repeatedly stressed Iran’s important geopolitical and strategic position in the Middle East.** In the words of former Secretary of State Henry Kissinger (2001), “There are few nations in the world with which the United States has less reason to quarrel or more compatible interests than Iran” (p. 197). **Heiss (2000) highlights the role Orientalism played in U.S.-Iran relations** during Prime Minister Mohammad Mosaddeq’s era in the early 1950s. Between 1951 and 1953, Iran was the first country in the Middle East to struggle to gain control of its oil industry. The Anglo-Iranian Oil Company, renamed The British Petroleum Company in 1954, was Britain’s largest overseas investment (British Petroleum, n.d.). According to Heiss (2000), “The end result of the Orientalization of Mosaddeq was an increasingly rigid Anglo-American position on the oil crisis that eschewed compromise or concessions **and ultimately saw removing him from office as the only acceptable course of action**” (p. 184). Ultimately, the Anglo-American coup in Iran in 1953, which toppled Mosaddeq, brought back the Shah after he was deposed and enabled Western companies to regain control of Iranian oil (Gasiorowski & Byrne, 2004). In Covering Islam, Said (1981) identifies media coverage of postrevolutionary Iran a case in point concerning the prevalence of Orientalist depictions of Islam and Muslims. **Likewise, McAlister (2001) contends that the threat of “Islam” and “terrorism” (p. 275) has supplied the cultural logic of U.S. foreign policy since the events of the Iranian revolution of 1979**. Although Iran is not an Arab country, according to McAlister, “Anti-Iranian sentiment in the United States drew heavily on the stereotyped representations of the Arab Middle East that had become so prevalent in the 1970s, particularly the image of ‘Arab terrorism’” (p. 214).

## Generic – 2NC

#### It is the process of stripping identies to engage in guerilla warfare against – it spills over Transformational change is possible- bottom-up anti-detention movements challenge US militarism

Zeeze, 13 -- JD, Occupy Washington DC organizer

[Kevin, and Margaret Flowers, It’s Our Economy co-director, "Building Mass Resistance against New World Order Economic Austerity," 5-24-13, www.globalresearch.ca/building-mass-resistance-against-new-world-order-economic-austerity/5336278, accessed 9-1-13, mss]

“We are in the midst of the pre-history of historic transformational change that will end the rule of money.” This was a week that exemplified the historic moment in which we live. We will look back at these times and see the seeds of a national revolt against concentrated wealth that puts profits ahead of people and the planet. Not only were there a wide array of resistance actions, but activists against the Guantanamo prison and drone strikes scored partial victories on which we much continue to build challenges to US empire and militarism. Mike Lux, who authored a history of the movements of the 1960s, wrote this week that when he researched his book he “was struck by the fact that so many big things happened so close together.” Comparing that moment to today he writes, “We are living in such a moment in history right now, that organizers and activists are sparking off each other and inspiring each other, that there is something building out there that will bring bigger change down the road.” That is how we felt as we watched and participated in this week’s unfolding. We began the week prepared to focus our attention on the amazing teacher, student and community actions that were occurring in defense of schools. In Philadelphia, there was a giant walk-out of schools last Friday as students demanded their schools remain open and be adequately funded. The photos of young people fighting for the basic necessity of education were an inspiration. That was followed by three days of protests in Chicago that were equally inspiring, students organized and communities came together to fight for education. Though corporate-mayor Rahm Emanuel’s carefully selected board voted to close 50 elementary schools and one high school (while the city funds the building of a new basketball stadium), the Chicago activists say they are not done. They are just getting started. It is that kind of persistence that wins transformation. These school battles are part of a national plan to replace community schools with corporatized charter schools. The battles of Chicago, Philadelphia and other cities are all of our battles. Then there were the college students, who inspired us with their bravery especially because they were not fighting for themselves but for the students who come after them. At Cooper Union, students are in their second week of occupying the school president’s office. As the sit-in grew to more than 100, they garnered increasing community support. The school is about to begin to charge tuition, ending the nearly two century mission of its founder for free higher education. The students protesting will get free tuition; they are protesting for the students who follow. While they are sitting in, they are painting the president’s offices black and will continue to do so until he resigns his $750,000 a year job. Thousands have signed a “no confidence” petition against the president and board chairman. We believe that a country that really believed in its youth and was building for its future would provide free post-high school education, college or vocational school, to young adults rather than leaving them crippled by massive debt. As the week went on, more Americans stood up and showed their power. On Monday, people who have lost their homes to foreclosure or are threatened with foreclosure, along with their allies, began an occupation of the Department of Justice. Some of them joined us first as guests on our radio show on We Act Radio. Afterwards, we went to Freedom Plaza where they rallied. The coalition was a great mix of people of different ages, races and regions who were angry, organized and prepared. They marched down Pennsylvania Ave. to the Department of Justice to demand that Attorney General Eric Holder prosecute the bankers who collapsed the economy and stole their homes. They blocked the doors at the Department of Justice and put up tents emblazoned with “Foreclose on Banks Not on People,” put up a home with “Bank Foreclosed” over it and blocked the streets with orange mesh saying “Foreclosure and Eviction Free Zone.” As evening came, they moved their tents onto DOJ property, brought in a big couch and prepared to stay the night – and some did. By the third day of protests, they moved to Covington and Burling, the corporate law firm that spawned Eric Holder and where the DOJ official in charge of prosecuting the banks, Lenny Breuer, who did not prosecute a single big bank now gets a $4 million annual salary. In Congress the DOJ could not justify their claim that prosecuting the big banks would hurt the economy. The Home Defenders League/Occupy Our Homes actions broke through in the media as you can see at the end of this photo essay. We particularly enjoyed the coverage in Forbes – someone claiming to be Jamie Dimon was arrested in DC – reporting on protesters who gave the name of banksters when they were arrested. The police responded aggressively, which often attracts media coverage, including the tasering non-violent protesters. And, we were pleased to see local groups, like Occupy Colorado, highlighting the efforts of their colleagues who came to DC. But, action in the nation’s capital did not end there. There was also a massive walkout of food service workers across the city. The strike began at the building named for the famed union-destroying president, the Ronald Reagan Building, and then moved on, with a particular focus on Obama – the largest employer of low-wage workers. Obama could end poverty federal wages with a stroke of the pen. Will he? DC is the sixth city to see low-wage workers striking, New York, Chicago, Detroit, St. Louis, and Milwaukee, came before the Capital. Communities have stood with the workers when employers threatened their jobs and people now need to do the same for the DC workers who are being threatened with job loss, please take action to support them. And, coming up is the Wal-Mart workers’ “Ride for Respect” to the annual shareholders meeting on June 7 which emulates the Freedom Riders. Actions are happening throughout the country. In Illinois, so far two people have been arrested at a sit-in in the capitol building to support a ban hydro-fracking. And, the reaction to the call for a fearless summer by front-line environmental groups has been very strong. They are working together to plan major actions throughout the summer escalating resistance against extreme energy extraction. Pressure is building in the environmental movement which now recognizes Obama is part of the problem, not part of the solution. Groups like 350.org that avoided protesting Obama, are now protesting his “grass roots” group, Organizing for America. And, more is coming. At the end of the week people who have been marching to Washington, DC from Philadelphia as part of “Operation Green Jobs” will arrive to protest at the corporate bully of the capital – the US Chamber of Commerce – uniting the masses in opposition to the corporate lobbyists. Their long walk to DC echoes a walk last week by people from Baltimore seeking jobs and justice. This Saturday will be the worldwide March Against Monsanto in 41 countries and nearly 300 cities. We published an article in Truthout that explains why we should all protest Monsanto on May 25. This is a great example of non-hierarchical organizing as this protest was called by young grass roots activists and supported by Occupy Monsanto. One of the things that let us know the popular revolt is more powerful than we realize is the reaction of the power structure. The Center for Media and Democracy issued a report this week that examined thousands of pages of documents which showed how the national security apparatus against terrorism combined with corporate America to attack the occupy movement. And, in Chicago one of the undercover police involved in the NATO 5 case, is still spying, now on students and teachers protesting school closures. If they did not fear the people, would the power structure be behaving this way? But, when you read reports about police acting in this undemocratic way, don’t forget that many of them do not like doing what they are ordered to do and that pulling them to join the popular revolt is part of our job. A mass movement needs people from the power structure to join it in order to achieve success. We highlight one this week, Officer Pedro Serrano of New York who took the great personal risk of taping his superiors as part of an effort to end the racist ‘stop and frisk’ program of the NYPD. And, it is great to see people planning ahead. We got notice this week from activists in Maine planning for an October Drone Walk. The anti-drone movement and Guantanamo protests have had very positive effects. This week, President Obama had to admit that he killed four Americans with drones, mostly by accident – even though the DoD claims drones are accurate. Also this week, activists filed a war crimes complaint against Obama, Brennan and other officials seeking their prosecution. And Thursday, Obama was forced to make a public speech at the National Defense University about both the drone program and Guantanamo Bay Prison. Medea Benjamin of CODEPINK, interrupted the speech several times such that the President had to acknowledge her and she asked powerful questions as she was escorted out by security. [See video and transcript.] As she was escorted from the room Obama acknowledged: “The voice of that women is worth paying attention to.” Guantanamo activists responded to the president saying “no more excuses” and vowed to keep the pressure on! So, just as author Mike Lux saw in the 60s, there is a lot going on, lots of issues coming to a head at the same time and people taking action to confront them. How do we get to the next phase of popular resistance? Long time writer on movements and transformational change, Sam Smith, the editor of Progressive Review wrote “The Great American Repair Manual in 1997,” we reprinted a portion of it this week: A Movement Manual. The essence: movements are “propelled by large numbers of highly autonomous small groups linked not by a bureaucracy or a master organization but by the mutuality of their thought, their faith and their determination.” He recommends: organize from the bottom up, create a subculture, create symbols, develop an agenda and make the movement’s values clear. He also recommends becoming what you want to be – become an existentialist – writing “existence precedes essence. We are what we do.” As far as building community power, we recommend this video from “The Democracy School” on how to use local governance to challenge corporate power.” Do not despair when the media says there is no popular resistance. We have been covering the actions of the movement with weekly reports since 2011 and even before the occupy movement began, we saw Americans beginning to stand up. We knew it was the right time for occupy and we now see it is the right time for a mass popular resistance. We will be announcing a new project in mid-June to help bring the movement to a new level. Sign up here to hear about it and how you can help. To create the transformative change we want to see, we need people to get involved. We agree with Mike Lux who writes: “just as it took several years for the seeds planted in those 18 months in the early ’60s to take root and begin to bring about the changes of the years to come in terms of civil rights, women’s rights, and the environment, it will take several years for the seeds being planted now to fully take root. But I believe more and more that it will happen.” The government responds with police force and ignores the demands of the people. Super majorities of Americans agree with the views of the popular resistance, even if they are not yet acting. This is a recipe for a mass eruption of movement activity. We are in the midst of the pre-history of historic transformational change: a transformation, which will end the power of money to ensure that the people and planet come before profits.

#### United front against imperialism solves- BUT reformist politics collapse revolutionary movements

Brown, 12 -- RAIM co-editor

[Nikolai, Revolutionary Anti-Imperialist Movement, "U.S. ramps up militarism amid Obama re-election, people’s war and united front will prevail," 12-11-12, anti-imperialism.com/2012/12/11/u-s-ramps-up-militarism-amid-obama-re-election-peoples-war-and-united-front-will-previal/, accessed 9-3-13, mss]

U.S. ramps up militarism amid Obama re-election, people’s war and united front will prevail Amid re-election victory, Barack Obama is leading the U.S. “forward” to increase aggression against the world’s people. More a sign of weakness than strength, U.S. militarism can be defeated by people’s wars and a united front against imperialism. A struggle must be waged in the ideological realm as well. First Worldism, social-chauvinism, and opportunism must be combated. U.S. imperialism marches world-wide Obama informed Congress in mid-September of plans to send combat-ready troops to Libya and Yemen “to protect U.S. lives and property.” The move is not unprecedented. In 1801 Thomas Jefferson used similar pretenses to launch the U.S.’s first foreign intervention, carried out against the ‘Barbary’ state centered in Tripoli. In the wake of the 2011 overthrow of Qaddafi, the U.S. recently promised eight million dollars in “counter-terrorism” aid to Libya. Yet, because Jihadists formed a crucial part of the U.S. backed coalition to overthrow the Libyan state and have since secured for themselves prominent positions of authority, U.S. officials are not sure who to give the cash to. Meanwhile, on the Arabian Peninsula, an ensuing U.S. military presence in Yemen is part of a larger strategy which includes drone warfare. (1) (2) Rebuking statements made throughout 2012 up to the election, the Obama administration announced plans for a sustained troop presence in Afghanistan. An “enduring” U.S. military force of around 10,000 troops will remain in the country ostensibly to combat approximately 100 suspected Al Qaeda members. (3) Obama has been silent over the Ugandan and Rwandan-sponsored conflict in the Democratic Republic of Congo. The approximately 3,000-5,500 fighters of the M23 militia have been organized together since April of 2012 and by November captured strategic portions in the eastern region of the central African country. Shamus Cooke, in an article reposted at Libya360, summarized an important factor in the situation: “The Democratic Republic of the Congo is home to 80 percent of the world’s cobalt, an extremely precious mineral needed to construct many modern technologies, including weaponry, cell phones, and computers. The DRC is possibly the most mineral/resource rich country in the world — overflowing with everything from diamonds to oil — though its people are among the world’s poorest, due to generations of corporate plunder of its wealth.” (4) M23 fighters are backed by US-supported governments in neighboring states, and the conflict has the markings of a U.S. covert operation aimed at looting the Congo’s remaining resources. The DRC is not the only place the U.S. is running covert operations. Obama recently publicly warned Syrian President Assad against using chemical weapons against Western-backed rebel forces. Obama’s warning is part of an emerging narrative, one which may be used as a pretext for direct foreign intervention, in which the Syrian government is plotting imminent attacks with supposed stockpiles of chemical weapons. Meanwhile in Turkey, NATO is deploying missiles near the Syrian border in preparation for a future conflict. (5) Behind the scenes, the U.S. is launching a new spy service. The Defense Intelligence Agency, the military’s version of the CIA, is being overhauled and rebranded as the Defense Clandestine Service. The revamped agency will be under the nominal direction of the Department of Defense and involved in assessing “emerging threats.” (6) The CIA is also in the news again. Former UK diplomat Craig Murray and Ecuadorian President Rafael Correa recently alleged that CIA drug money is being used in efforts to topple the social-democratic Ecuadorian government. The allegations coincide with reports from 2007 of a CIA airplane loaded with four tons of cocaine crashing in the Yucatan. (7) (8) World-wide resistance needed Despite these and other acts of imperialist militarism, the United States is far from invincible. Its increasing reliance on armed blackmail is a sign of long-term weakness, not strength. Thrown into financial crisis by the mechanisms of its parasitic economy, the U.S. is seeking a resolution by imposing even harsher neo-colonial conditions onto Third World peoples and ratcheting up inter-imperialist rivalry against Russian and Chinese capital. Commenting on the struggle of the Chinese masses against Japan’s 1937 invasion and occupation, Mao Zedong noted how the strengths and weaknesses of the opposing forces were not absolute values. Instead they were subject to change over the course of class struggle. Japanese imperialism, which appeared strong during its invasion and occupation of China, was defeated by a Communist-led united front. (9) Though U.S. imperialism appears strong today, it too is surmountable. Lin Biao, a field marshal in the Chinese People’s Liberation Army and prominent Maoist during the Cultural Revolution, noted that U.S.-led imperialism has set itself against the people of the world, specifically those in the Third World. This has made it possible to construct a broad, global, proletarian-led united front against imperialism. (10) Imperialism has other weaknesses as well. By maintaining national oppression within its own borders, U.S. imperialism has created inside itself potential allies of Third World-centered proletarian revolution. Likewise, imperialism, especially late imperialism like that of the U.S., is capitalism in its most decadent phase. It is characterized by increasing irrationality, militarism, and reaction. Under these conditions, proletarian revolution becomes not simply possible but necessary for the liberation of humanity at large. Imperialism is also marked by the increasingly parasitic relationship of First World economies to Third World ones. Imperialism has created within the First World a class of property-less petty-bourgeoisie. This class has both an ideological function and an economic one. On one hand, imperialism compensates ‘its’ workers above the value of their labor to create a mass base of support, and to sow social-chauvinism, opportunism, and confusion in proletarian movements. On the other hand, by paying ‘its’ workers in part with surplus, the imperialist bourgeoisie ‘invests’ value into its workers that can later be realized elsewhere in the First World. Economically speaking, the property-less petty-bourgeoisie is a functional expression of the concentration and accumulation of capital in the First World at the expense of the Third World. (11) This is why Lin’s summary of contemporary class struggle is significant. The proletarian-led united front against imperialism is strategically designed to change the balance of power in global class relations. First Worldism and opportunism against revolution Along with the need to build, consolidate and extent the united front against imperialism, First Worldism and opportunism must be combated within proletarian movements as well. First Worldism is the ‘left-wing’ ideological expression of the First World property-less petty-bourgeoisie. It expresses politics through the eyes of the First World property-less petty-bourgeoisie while simultaneous denying the existence of this class. By universalizing the property-less petty-bourgeoisie as a central progressive agent, First Worldism thereby misconstrues the notions of the proletariat, class struggle, and socialism. It is one of the most damaging and prevalent forms of social-chauvinism today. (12) Opportunism pursues short-term, narrow goals at the expense of the broader revolutionary interests of the proletariat as a whole.. Opportunism poses in ‘left-wing’ garb while supporting the basic aspects of imperialism. Not surprising, First Worldism and opportunism often go hand and hand. One must look no further than the ‘Communist’ Party-USA to see a clear example of First Worldism and opportunism coming together to support imperialism. In both 2008 and 2012, the ‘C’PUSA campaigned for Obama and other “progressive” Democrats. Their rationale is simple: Republican politicians represent a “far-right onslaught” against the interests of working people in the U.S. Regardless of whether this sentiment has any basis in truth, it demonstrates how First Worldist opportunism serve imperialism, in this case providing ‘Communist’ cover and support for the imperialist militarism carried out by Democrats. The ‘C’PUSA is merely one example of First Worldist opportunism. (13) Amy Goodman, host of Democracy Now!, made a salient point when she credited Obama’s re-election to “social movements.” Ostensibly referring to Occupy Wall Sreet and other First Worldist reform movements, Goodman noted how they joined together and secured Obama’s victory over Republican contender Mitt Romney. (14) This raises an important point about the First World property-less petty-bourgeoisie. While Goodman makes the short-sighted assessment that Obama’s electoral victory was carried through by the support of “grassroots activists,” it is more significant to note that imperialist militarism derives much-needed legitimacy and support from the willingness of the ‘left-wing’ in the U.S. to trade any semblance of internationalism for minor social and economic reforms for their own further benefit. Without the direct endorsements and implicit ideological support U.S. imperialism receives from ‘its’ ‘left-wing’ (which is bought and paid for through super-wages supplied via the exploitation of the Third World), it would not be at such ease to carry out global aggression under the banner of ‘democracy,’ ‘progress,’ and ‘human rights.’ First Worldism promotes opportunism and sets back proletarian revolution in other ways. If, as assumed by First Worldists, the First World property-less-petty bourgeoisie is the model of the modern proletariat, and if Amerikan workers receive high wages because of high productivity and historic class struggle (and not due to its historic unity with ‘their’ imperialists and corresponding relationship within developing class structures), then the logical route of class struggle around the world is for similar reforms. If First Worldists are correct and First World workers are an exploited proletariat, Third World people would be wisely advised to struggle for reforms to their own countries so that they may be exploited under terms similar to First World workers. For this reason, spreading First Worldist confusion regarding modern global class dynamics is tantamount to promoting opportunism and reformism. Groups waging people’s war who uphold First Worldism shoot themselves in the foot by doing so. There is still work to be done in the First World. Third Worldists in the First World should organize and agitate around challenging oppression and advancing higher interests than immediate class ones. Moreover, Third Worldists must spread awareness and support for people’s war and a united front against imperialism and prepare for later struggles ‘in the belly of the beast.’ U.S.-led imperialism is hardly invincible. Instead, it is weaker than ever. People’s wars and a broad united front against imperialism can alter the terrain of class struggle, thus bringing to the fore the struggle for socialism and communism. First Worldism and opportunism must not be treated lightly as part of this struggle. Whereas imperialism and reaction presents itself openly, First Worldism and opportunism operates within and around proletarian movements for similar ends. Obama, with the support and cover of the Amerikan and First World property-less petty-bourgeoisie, is leading a renewed imperialist offensive against the people of the Third World. People around the world must resist. People’s wars and revolutions against neo-colonial regimes must be initiated and carried out, and imperialism must be singled out and destroyed by a united front of exploited Third World peoples and their allies. Struggles must be waged in the ideological and practical sphere against First Worldism and opportunism. Allies must be built even in the First World, and unity must be achieved around revolutionary anti-imperialism.