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#### THE TERM ACCIDENTS DISPLACES RESPONSIBILITY FROM US, JUSTIFYING UNWARRANTED NUCLEAR WEAPON USE

William Chaloupka, Prof. of political science at Univ. of Montana, 1992, *Knowing Nukes*, pg. 13-4

This absurd outcome may be most evident when we consider those major destabilizers in the nuclear world that come under the classifica­tion of “accidents.” The term “accident” is of obvious interest to nuclear criticism. In a discourse that allocates responsibilities pervasively, “acci­dent” is a free spot, without cause or conspiracy. In the case of nuclear power, the notion of accident had already become visible in the late 1970s, after nuclear critics and Nuclear Regulatory Commission officials sparred over the vocabulary appropriate to Three Mile Island. To official­dom, accident was obviously an appropriate label for these events, since there was never any suggestion of malevolence or subversion. To critics, it was just as obvious that when societies produce electricity by placing or­nately complex plants around the landscape, radiation releases are so in­evitable that the word “accident” reveals an evasion of responsibility. In another case, compatriots of the Iran Air 655 victims insisted that its destruction must have been intentional, simply because the powerful American technology could not possibly have “made a mistake” (or “had an accident”) of such magnitude. Meanwhile, critics in the United States—more familiar with technological failures—argued that placing a weapon such as the U.S.S. Vincennes in a place such as the Persian Gulf invited tragedy so openly as to defy the categories “mistake” and “acci­dent.” Noting the radical reversibility of such analyses—the ease with which they are inverted—we might begin to suspect that “accident” is a special term in the debate over nukes. Indeed, “accident” has even served as a sign of stability, as in the oft-repeated analysis that the paradoxes of deterrence are so stable that the real danger of nuclear war comes from the chance of accident. So-called accidents may attain this special status because of the role the rhetoric of “accident” necessarily preserves for a rhetoric of agency. To call something an “accident” is to claim (or hope) that there is no har­bor for responsibility, even though we continually use rhetorical devices that allocate causality when we talk about politics. This double character gives the formulation “nuclear accident” an extraordinary power. Hypo­thetically, such an accident could destroy all life; if that weren’t enough, the formulation draws attention to the provisional, constituted character of American discourse about agency and authority. Richard Klein and William B. Warner presented the Korean Air Lines downing as a case that illustrates the ambivalence of accidents.36 As they suggest, we have long known that designating something an “accident” is an implement of international diplomacy. Such a designation can be (and often is) constructed after the event in question, for purposes not neces­sarily connected to the “facts” of the event. Statesmen make events into accidents (or, conversely, attribute a conscious purpose to an inadvertent event) depending on the geopolitical move they want to make. In the case of nuclear war, which has no “after the fact,” these determinations would have to be made very quickly, and “this determination of the char­acter of the incident, before it happens, may itself initiate a war.”37 In such a situation, it might well be impossible for the participants to map all of the contingencies required to produce reliable clarity. Indeed, clarity on causation, responsibility, and accident has often been an artifact of ‘‘the luxurious time of diplomatic distance,~~ not some obvious feature of the event in question. And clarity, as it pertains to nukes, is no abstract exercise; it is a precondition for continuing at all. One failure and the rubble bounces, as the saying goes.

#### Using the law to restrain its own war power authority only re-centralizes power --- Voting neg to reject the 1AC’s institutional war power narrative is the most productive political act

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Despite such democratic concerns, a large part of what makes today’s dominant security concept so compelling are two purportedly objective sociological claims about the nature of modern threat. As these claims undergird the current security concept, by way of a conclusion I would like to assess them more directly and, in the process, indicate what they suggest about the prospects for any future reform. The first claim is that global interdependence means that the U.S. faces near continuous threats from abroad. Just as Pearl Harbor presented a physical attack on the homeland justifying a revised framework, the American position in the world since has been one of permanent insecurity in the face of new, equally objective dangers. Although today these threats no longer come from menacing totalitarian regimes like Nazi Germany or the Soviet Union, they nonetheless create of world of chaos and instability in which American domestic peace is imperiled by decentralized terrorists and aggressive rogue states.187 Second, and relatedly, the objective complexity of modern threats makes it impossible for ordinary citizens to comprehend fully the causes and likely consequences of existing dangers. Thus, the best response is the further entrenchment of Herring’s national security state, with the U.S. permanently mobilized militarily to gather intelligence and to combat enemies wherever they strike – at home or abroad. Accordingly, modern legal and political institutions that privilege executive authority and insulated decisionmaking are simply the necessary consequence of these externally generated crises. Regardless of these trade-offs, the security benefits of an empowered presidency (one armed with countless secret and public agencies as well as with a truly global military footprint)188 greatly outweigh the costs. Yet, although these sociological views have become commonplace, the conclusions that Americans should draw about security requirements are not nearly as clear cut as the conventional wisdom assumes. In particular, a closer examination of contemporary arguments about endemic danger suggests that such claims are not objective empirical judgments but rather are socially complex and politically infused interpretations. Indeed, the openness of existing circumstances to multiple interpretations of threat implies that the presumptive need for secrecy and centralization is not self-evident. And as underscored by high profile failures in expert assessment, claims to security expertise are themselves riddled with ideological presuppositions and subjective biases. All this indicates that the gulf between elite knowledge and lay incomprehension in matters of security may be far less extensive than is ordinarily thought. It also means that the question of who decides – and with it the issue of how democratic or insular our institutions should be – remains open as well. Clearly technological changes, from airpower to biological and chemical weapons, have shifted the nature of America’s position in the world and its potential vulnerability. As has been widely remarked for nearly a century, the oceans alone cannot guarantee our permanent safety. Yet, in truth they never fully ensured domestic tranquility. The nineteenth century was one of near continuous violence, especially with indigenous communities fighting to protect their territory from expansionist settlers. 189 But even if technological shifts make doomsday scenarios more chilling than those faced by Hamilton, Jefferson, or Taney, the mere existence of these scenarios tells us little about their likelihood or how best to address them. Indeed, these latter security judgments are inevitably permeated with subjective political assessments, assessments that carry with them preexisting ideological points of view – such as regarding how much risk constitutional societies should accept or how interventionist states should be in foreign policy. In fact, from its emergence in the 1930s and 1940s, supporters of the modern security concept have – at times unwittingly – reaffirmed the political rather than purely objective nature of interpreting external threats. In particular, commentators have repeatedly noted the link between the idea of insecurity and America’s post-World War II position of global primacy, one which today has only expanded following the Cold War. In 1961, none other than Senator James William Fulbright declared, in terms reminiscent of Herring and Frankfurter, that security imperatives meant that “our basic constitutional machinery, admirably suited to the needs of a remote agrarian republic in the 18th century,” was no longer “adequate” for the “20th- century nation.”190 For Fulbright, the driving impetus behind the need to jettison antiquated constitutional practices was the importance of sustaining the country’s “preeminen[ce] in political and military power.”191 Fulbright held that greater executive action and war-making capacities were essential precisely because the United States found itself “burdened with all the enormous responsibilities that accompany such power.”192 According to Fulbright, the United States had both a right and a duty to suppress those forms of chaos and disorder that existed at the edges of American authority. Thus, rather than being purely objective, the American condition of permanent danger was itself deeply tied to political calculations about the importance of global primacy. What generated the condition of continual crisis was not only technological change, but also the belief that the United States’ own ‘national security’ rested on the successful projection of power into the internal affairs of foreign states. The key point is that regardless of whether one agrees with such an underlying project, the value of this project is ultimately an open political question. This suggests that whether distant crises should be viewed as generating insecurity at home is similarly as much an interpretative judgment as an empirically verifiable conclusion.193 To appreciate the open nature of security determinations, one need only look at the presentation of terrorism as a principal and overriding danger facing the country. According to the State Department’s Annual Country Reports on Terrorism, in 2009 “[t]here were just 25 U.S. noncombatant fatalities from terrorism worldwide” (sixteen abroad and nine at home).194 While the fear of a terrorist attack is a legitimate concern, these numbers – which have been consistent in recent years – place the gravity of the threat in perspective. Rather than a condition of endemic danger – requiring ever increasing secrecy and centralization – such facts are perfectly consistent with a reading that Americans do not face an existential crisis (one presumably comparable to Pearl Harbor) and actually enjoy relative security. Indeed, the disconnect between numbers and resources expended, especially in a time of profound economic insecurity, highlights the political choice of policymakers and citizens to persist in interpreting foreign events through a World War II and early Cold War lens of permanent threat. In fact, the continuous alteration of basic constitutional values to fit ‘national security’ aims highlights just how entrenched Herring’s old vision of security as pre-political and foundational has become, regardless of whether other interpretations of the present moment may be equally compelling. It also underscores a telling and often ignored point about the nature of modern security expertise, particularly as reproduced by the United States’ massive intelligence infrastructure. To the extent that political assumptions – like the centrality of global primacy or the view that instability abroad necessarily implicates security at home – shape the interpretative approach of executive officials, what passes as objective security expertise is itself intertwined with contested claims about how to view external actors and their motivations. This means that while modern conditions may well be complex, the conclusions of the presumed experts may not be systematically less liable to subjective bias than judgments made by ordinary citizens based on publicly available information. It further underscores that the question of who decides cannot be foreclosed in advance by simply asserting deference to elite knowledge. If anything, one can argue that the presumptive gulf between elite awareness and suspect mass opinion has generated its own very dramatic political and legal pathologies. In recent years, the country has witnessed a variety of security crises built on the basic failure of ‘expertise.’195 At present, part of what obscures this fact is the very culture of secret information sustained by the modern security concept. Today, it is commonplace for government officials to leak security material about terrorism or external threat to newspapers as a method of shaping the public debate.196 These ‘open’ secrets allow greater public access to elite information and embody a central and routine instrument for incorporating mass voice into state decision-making. But this mode of popular involvement comes at a key cost. Secret information is generally treated as worthy of a higher status than information already present in the public realm – the shared collective information through which ordinary citizens reach conclusions about emergency and defense. Yet, oftentimes, as with the lead up to the Iraq War in 2003, although the actual content of this secret information is flawed,197 its status as secret masks these problems and allows policymakers to cloak their positions in added authority. This reality highlights the importance of approaching security information with far greater collective skepticism; it also means that security judgments may be more ‘Hobbesian’ – marked fundamentally by epistemological uncertainty as opposed to verifiable fact – than policymakers admit. If both objective sociological claims at the center of the modern security concept are themselves profoundly contested, what does this mean for reform efforts that seek to recalibrate the relationship between liberty and security? Above all, it indicates that the central problem with the procedural solutions offered by constitutional scholars – emphasizing new statutory frameworks or greater judicial assertiveness – is that they mistake a question of politics for one of law. In other words, such scholars ignore the extent to which governing practices are the product of background political judgments about threat, democratic knowledge, professional expertise, and the necessity for insulated decision-making. To the extent that Americans are convinced that they face continuous danger from hidden and potentially limitless assailants – danger too complex for the average citizen to comprehend independently – it is inevitable that institutions (regardless of legal reform initiatives) will operate to centralize power in those hands presumed to enjoy military and security expertise. Thus, any systematic effort to challenge the current framing of the relationship between security and liberty must begin by challenging the underlying assumptions about knowledge and security upon which legal and political arrangements rest. Without a sustained and public debate about the validity of security expertise, its supporting institutions, and the broader legitimacy of secret information, there can be no substantive shift in our constitutional politics. The problem at present, however, is that no popular base exists to raise these questions. Unless such a base emerges, we can expect our prevailing security arrangements to become ever more entrenched.

#### Centralized institutionalizion causes genocide and extinction

HINDMARSH 2005 - Professor at the Australian School of Environmental Studies—Griffith University (Richard Hindmarsh, April 2005, Green Biopolitics & the Molecular Reordering of Nature, <http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/granada/ws16/Hindmarsh.pdf>)

The first usage of the term ‘biopolitics’ that Braun and Gottweis (2004) refer to aligns to my longstanding analysis of the genetic engineering context. Unconnected to the traditional Foucauldian concept of **‘biopolitics’**, it ‘refers to the new public policy area of biotechnology policy which has co-evolved with the development of the life sciences’ to refer to transformations in medicine and health, or in food, agriculture and the environment. Here, biopolitical analysis is predominantly on biotechnology regulation and bioscientific-technological development. In turn, the second usage refers to the historical tradition of Foucauldian inquiry, which describes and analyses two forms of control and administration (the ‘art of government’) that emerged from the sixteenth century onwards. The first form concerns the disciplining, especially through institutionalisation, of individuals, or collections of individuals, for their usefulness (or performance) for integration into systems of **‘efficient and economic controls’** (Foucault 1990 [French version 1976]: 139). The second form is concerned with administering the biological processes and resources (or subjugation and control) of the species body or populations in general: namely their bodies, and reproduction. This is achieved through their productive engagement with the then emerging scientific methods such as, for example, statistics, in what Foucault calls the investment of the body of the population and its valorization. Typically, this area tackles the urban space, the habitat, the natural resources and their distribution, and within this, public health. Scientists and engineers, deemed holders of ‘**expert knowledges’**, carry out this **disciplining and administration** on behalf of the government (Foucault 1977, Rutherford 1999). This aims to ‘**normalize’ the knowledge** of the experts vis-à-vis other knowledges, although this is not a given but is achieved in a relational way. As such, systems of knowledge-power instead **negotiate and mediate society** and its directions. Forms of knowledge-power to ‘administer life’ (govern) and normalize governmentality, Foucault (1990: 143) refers to as ‘bio-power’, applied as a regime of power within the social body, rather from above it. This is carried out through the application of tactical elements (‘discourses’) or ‘discursive practices’: ‘practices of talk, text, writing, cognition, argumentation, and representation generally’ (Clegg 1989: 151). The exercise of power is thus not understood as a ‘single, all-encompassing strategy’ (Foucault 1990: 103), but, as Clegg (1989: 154) recognises, as ‘a more or less stable or shifting network of alliances extended over a shifting terrain of practice and discursively constituted interests. Points of resistance will open up at many points in the network. Their effect will be to fracture alliances, constitute regroupings and reposit strategies’. Such practices applied to the administration of resources in managing human populations also introduces the notion of the environment and its control, and thus the Cartesian body-mind or nature-culture dichotomy — which has been described as ‘the drawing apart of the human subject, or “experiencer”, and the world experienced’ (Pratt et al. 2000: 7). Much environmental thought has since ascribed this divide as the main cause of today’s environmental problems (as discussed below). The Cartesian divide paralleled the emergence of bio-power, during the Enlightenment, with logical links extended to the control of human populations through it partitioning and regulation, the focus of Foucault’s inquiry. Yet, in introducing the broader environmental context, my attention is almost immediately drawn to the point in Foucault’s conceptualisation of bio-power of his recognition that the techniques of the administration of life cannot effect total control, that ‘it [life] constantly escapes them’. Thus, even though Foucault’s focus is on human life and its regulation, where ‘escape’ equates to resistance, ‘escape’, in reference to the management of natural resources where the Foucauldian gaze is also upon the health of the people, institutional and/or technological failure of administration **can instead cause environmental breakdown** that instead exposes human health to undue risk and hazard, the opposite of health**.** This, I would posit, is posed by Foucault, although rather opaquely, in The Will To Knowledge (1990: 137), Wars are no longer waged in the name of a sovereign who must be defended; they are waged on behalf of the existence of everyone … the decision that initiates them and the one that **terminates them** are in fact increasingly informed by the naked question of survival … **The atomic situation is now at the end point** of this process: **the power to guarantee an individual’s existence.** The principle underlying the tactics of battle — **that one has to be capable of killing in order to go on living** — **has become the principle that defines the strategy of states**. But the existence in question is no longer the juridical existence of sovereignity; **at stake is the biological existence** of a population. **If genocide is indeed the dream of modern powers**, this is not because of a recent return of the ancient right to kill**; it is because power is situated and exercised at the level of life,** the species, the race, and the large-scale phenomena of population.

### 1NC

#### **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.

#### Vote neg---Only prohibitions on authority guarantee neg ground---their interpretation lets affs no link the best neg offense like deference

### 1NC

#### Introducing “armed forces” only refers to human troops, not weapons systems

**Lorber, 13** - J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science (Eric, “Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?” 15 U. Pa. J. Const. L. 961, January, lexis)

As is evident from a textual analysis, n177 an examination of the legislative history, n178 and the broad policy purposes behind the creation of the Act, n179 [\*990] "armed forces" refers to U.S. soldiers and members of the armed forces, not weapon systems or capabilities such as offensive cyber weapons. Section 1547 does not specifically define "armed forces," but it states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government." n180 While this definition pertains to the broader phrase "introduction of armed forces," the clear implication is that only members of the armed forces count for the purposes of the definition under the WPR. Though not dispositive, the term "member" connotes a human individual who is part of an organization. n181 Thus, it appears that the term "armed forces" means human members of the United States armed forces. However, there exist two potential complications with this reading. First, the language of the statute states that "the term "introduction of United States Armed Forces' includes the assignment of members of such armed forces." n182 By using inclusionary - as opposed to exclusionary - language, one might argue that the term "armed forces" could include more than members. This argument is unconvincing however, given that a core principle of statutory interpretation, expressio unius, suggests that expression of one thing (i.e., members) implies the exclusion of others (such as non-members constituting armed forces). n183 Second, the term "member" does not explicitly reference "humans," and so could arguably refer to individual units and beings that are part of a larger whole (e.g., wolves can be members of a pack). As a result, though a textual analysis suggests that "armed forces" refers to human members of the armed forces, such a conclusion is not determinative.

An examination of the legislative history also suggests that Congress clearly conceptualized "armed forces" as human members of the armed forces. For example, disputes over the term "armed forces" revolved around who could be considered members of the armed forces, not what constituted a member. Senator Thomas Eagleton, one of the Resolution's architects, proposed an amendment during the process providing that the Resolution cover military officers on loan to a civilian agency (such as the Central [\*991] Intelligence Agency). n184 This amendment was dropped after encountering pushback, n185 but the debate revolved around whether those military individuals on loan to the civilian agency were still members of the armed forces for the purposes of the WPR, suggesting that Congress considered the term to apply only to soldiers in the armed forces. Further, during the congressional hearings, the question of deployment of "armed forces" centered primarily on past U.S. deployment of troops to combat zones, n186 suggesting that Congress conceptualized "armed forces" to mean U.S. combat troops.

The broad purpose of the Resolution aimed to prevent the large-scale but unauthorized deployments of U.S. troops into hostilities. n187 While examining the broad purpose of a legislative act is increasingly relied upon only after examining the text and legislative history, here it provides further support for those two alternate interpretive sources. n188 As one scholar has noted, "the War Powers Resolution, for example, is concerned with sending U.S. troops into harm's way." n189 The historical context of the War Powers Resolution is also important in determining its broad purpose; as the resolutions submitted during the Vietnam War and in the lead-up to the passage of the WPR suggest, Congress was concerned about its ability to effectively regulate the President's deployments of large numbers of U.S. troops to Southeast Asia, n190 as well as prevent the President from authorizing troop incursions into countries in that region. n191 The WPR was a reaction to the President's continued deployments of these troops into combat zones, and as such suggests that Congress's broad purpose was to prevent the unconstrained deployment of U.S. personnel, not weapons, into hostilities.

This analysis suggests that, when defining the term "armed forces," Congress meant members of the armed forces who would be placed in [\*992] harm's way (i.e., into hostilities or imminent hostilities). Applied to offensive cyber operations, such a definition leads to the conclusion that the War Powers Resolution likely does not cover such activities. Worms, viruses, and kill switches are clearly not U.S. troops. Therefore, the key question regarding whether the WPR can govern cyber operations is not whether the operation is conducted independently or as part of a kinetic military operation. Rather, the key question is the delivery mechanism. For example, if military forces were deployed to launch the cyberattack, such an activity, if it were related to imminent hostilities with a foreign country, could trigger the WPR. This seems unlikely, however, for two reasons. First, it is unclear whether small-scale deployments where the soldiers are not participating or under threat of harm constitute the introduction of armed forces into hostilities under the War Powers Resolution. n192 Thus, individual operators deployed to plant viruses in particular enemy systems may not constitute armed forces introduced into hostilities or imminent hostilities. Second, such a tactical approach seems unlikely. If the target system is remote access, the military can attack it without placing personnel in harm's way. n193 If it is close access, there exist many other effective ways to target such systems. n194 As a result, unless U.S. troops are introduced into hostilities or imminent hostilities while deploying offensive cyber capabilities - which is highly unlikely - such operations will not trigger the War Powers Resolution.

#### Voting issue – they explode the topic, including weapons systems turns this topic into an arms control topic – nuclear weapons, space weaponization, or the CWC and BWC could all be their own topics. Their interpretation makes being negative impossible

### 1nc

#### Counterplan – The Executive Branch of the United States should eliminate Launch on warning. The executive should offer transparency and confidence building measures to Russia to make clear that the United States.

The plan ends nuclear deference – this causes nuclear war and sets a precedent gutting executive warfighting capability

**Knowles 9** – Acting Assistant Professor, New York University School of Law (Robert, Spring, “American Hegemony and the Foreign Affairs Constitution”, 41 Ariz. St. L.J. 87, Lexis Law)

Nonetheless, foreign relations remain special, and courts must treat them differently in one important respect. In the twenty-first century, speed matters, and the executive branch alone possesses the ability to articulate and implement foreign policy quickly. Even non-realists will acknowledge that the international realm is much more susceptible to crisis and emergency than the domestic realm. But speed remains more important even to non-crisis foreign affairs cases. n391 It is true that **the stable nature of American hegemony will prevent truly destabilizing events** from happening without great changes in the geopolitical situation - the sort that occur over decades. The United States will not, for some time, face the same sorts of existential threats as in the past. n392 Nonetheless, in foreign affairs matters, it is only the executive branch that has the capacity successfully to conduct [\*150] treaty negotiations, for example, which depend on adjusting positions quickly. The need for speed is particularly acute in crises. Threats from transnational terrorist groups and loose **nuclear weapons are among the most serious problems** facing the United States today. The United States maintains a "quasi-monopoly on the international use of force," n393 but the rapid pace of change and improvements in weapons technology mean that the executive branch must respond to emergencies long before the courts have an opportunity to weigh in. Even if a court was able to respond quickly enough, it is not clear that we would want courts to adjudicate foreign affairs crises without the deliberation and opportunities for review that are essential aspects of their institutional competence. Therefore, courts should grant a higher level of deference to executive branch determinations in deciding whether to grant a temporary restraining order or a preliminary injunction in foreign affairs matters. Under the super-strong Curtiss-Wright deference scheme, the court should accept the executive branch interpretation unless Congress has specifically addressed the matter and the issue does not fall within the President's textually-specified Article I powers.

#### That decks effective executive responses to prolif, terror, and the rise of hostile powers---link threshold is low

Robert Blomquist 10, Professor of Law, Valparaiso University School of Law, THE JURISPRUDENCE OF AMERICAN NATIONAL SECURITY PRESIPRUDENCE, 44 Val. U.L. Rev. 881

Supreme Court Justices--along with legal advocates--need to conceptualize and prioritize big theoretical matters of institutional design and form and function in the American national security tripartite constitutional system. By way of an excellent introduction to these vital issues of legal theory, the Justices should pull down from the library shelf of the sumptuous Supreme Court Library in Washington, D.C. (or more likely have a clerk do this chore) the old chestnut, The Legal Process: Basic Problems in the Making and Application of Law by the late Harvard University law professors Henry M. Hart and Albert M. Sacks. n7 Among the rich insights on institutional design coupled with form and function in the American legal system that are germane to the Court's interpretation of national security law-making and decision-making by the President are several pertinent points. First, "Hart and Sacks' intellectual starting point was the interconnectedness of human beings, and the usefulness of law in helping us coexist peacefully together." n8 By implication, therefore, the Court should be mindful of the unique [\*883] constitutional role played by the POTUS in preserving peace and should prevent imprudent judicial actions that would undermine American national security. Second, Hart and Sacks, continuing their broad insights of social theory, noted that legal communities establish "institutionalized[] procedures for the settlement of questions of group concern" n9 and regularize "different procedures and personnel of different qualifications . . . appropriate for deciding different kinds of questions" n10 because "every modern society differentiates among social questions, accepting one mode of decision for one kind and other modes for others-e.g., courts for 'judicial' decisions and legislatures for 'legislative' decisions" n11 and, extending their conceptualization, an executive for "executive" decisions. n12 Third, Professors Hart and Sacks made seminal theoretical distinctions between rules, standards, principles, and policies. n13 While all four are part of "legal arrangements [\*884] in an organized society," n14 and all four of these arrangements are potentially relevant in judicial review of presidential national security decisions, principles and policies n15 are of special concern because of the sprawling, inchoate, and rapidly changing nature of national security threats and the imperative of hyper-energy in the Executive branch in responding to these threats. n16

The Justices should also consult Professor Robert S. Summers's masterful elaboration and amplification of the Hart and Sacks project on enhancing a flourishing legal system: the 2006 opus, Form and Function in a Legal System: A General Study. n17 The most important points that [\*885] Summers makes that are relevant to judicial review of American national security presiprudence are three key considerations. First, a "conception of the overall form of the whole of a functional [legal] unit is needed to serve the founding purpose of defining, specifying, and organizing the makeup of such a unit so that it can be brought into being and can fulfill its own distinctive role" n18 in synergy with other legal units to serve overarching sovereign purposes for a polity. The American constitutional system of national security law and policy should be appreciated for its genius in making the POTUS the national security sentinel with vast, but not unlimited, powers to protect the Nation from hostile, potentially catastrophic, threats. Second, "a conception of the overall form of the whole is needed for the purpose of organizing the internal unity of relations between various formal features of a functional [legal] unit and between each formal feature and the complementary components of the whole unit." n19 Thus, Supreme Court Justices should have a thick understanding of the form of national security decision-making conceived by the Founders to center in the POTUS; the ways the POTUS and Congress historically organized the processing of national security through institutions like the National Security Council and the House and Senate intelligence committees; and the ways the POTUS has structured national security process through such specific legal forms as Presidential Directives, National Security Decision Directives, National Security Presidential Decision Directives, Presidential Decision Directives, and National Security Policy Directives in classified, secret documents along with typically public Executive Orders. n20 Third, according to Summers, "a conception of the overall form of the whole functional [legal] unit is needed to organize further the mode of operation and the instrumental capacity of the [legal] unit." n21 So, the Supreme Court should be aware that tinkering with national security decisions of the POTUS--unless clearly necessary to counterbalance an indubitable violation of the text of the Constitution--may lead to unforeseen negative second-order consequences in the ability of the POTUS (with or without the help of Congress) to preserve, protect, and defend the Nation. n22

[\*886] B. Geopolitical Strategic Considerations Bearing on Judicial Interpretation

Before the United States Supreme Court Justices form an opinion on the legality of national security decisions by the POTUS, they should immerse themselves in judicially-noticeable facts concerning what national security expert, Bruce Berkowitz, in the subtitle of his recent book, calls the "challengers, competitors, and threats to America's future." n23 Not that the Justices need to become experts in national security affairs, n24 but every Supreme Court Justice should be aware of the following five basic national security facts and conceptions before sitting in judgment on presiprudential national security determinations.

(1) "National security policy . . . is harder today because the issues that are involved are more numerous and varied. The problem of the day can change at a moment's notice." n25 While "[y]esterday, it might have been proliferation; today, terrorism; tomorrow, hostile regional powers" n26, the twenty-first century reality is that "[t]hreats are also more likely to be intertwined--proliferators use the same networks as narco-traffickers, narco-traffickers support terrorists, and terrorists align themselves with regional powers." n27

(2) "Yet, as worrisome as these immediate concerns may be, the long-term challenges are even harder to deal with, and the stakes are higher. Whereas the main Cold War threat--the Soviet Union--was brittle, most of the potential adversaries and challengers America now faces are resilient." n28

(3) "The most important task for U.S. national security today is simply to retain the strategic advantage. This term, from the world of military doctrine, refers to the overall ability of a nation to control, or at least influence, the course of events." n29 Importantly, "[w]hen you hold [\*887] the strategic advantage, situations unfold in your favor, and each round ends so that you are in an advantageous position for the next. When you do not hold the strategic advantage, they do not." n30

(4) While "keeping the strategic advantage may not have the idealistic ring of making the world safe for democracy and does not sound as decisively macho as maintaining American hegemony," n31 maintaining the American "strategic advantage is critical, because it is essential for just about everything else America hopes to achieve--promoting freedom, protecting the homeland, defending its values, preserving peace, and so on." n32

(5) The United States requires national security "agility." n33 It not only needs "to refocus its resources repeatedly; it needs to do this faster than an adversary can focus its own resources." n34

[\*888] As further serious preparation for engaging in the jurisprudence of American national security presiprudence in hotly contested cases and controversies that may end up on their docket, our Supreme Court Justices should understand that, as Walter Russell Mead pointed out in an important essay a few years ago, n35 the average American can be understood as a Jacksonian pragmatist on national security issues. n36 "Americans are determined to keep the world at a distance, while not isolating ourselves from it completely. If we need to take action abroad, we want to do it on our terms." n37 Thus, recent social science survey data paints "a picture of a country whose practical people take a practical approach to knowledge about national security. Americans do not bother with the details most of the time because, for most Americans, the details do not matter most the time." n38 Indeed, since the American people "do know the outlines of the big picture and what we need to worry about [in national security affairs] so we know when we need to pay greater attention and what is at stake. This is the kind of knowledge suited to a Jacksonian." n39

Turning to how the Supreme Court should view and interpret American presidential measures to oversee national security law and policy, our Justices should consider a number of important points. First, given the robust text, tradition, intellectual history, and evolution of the institution of the POTUS as the American national security sentinel, n40 and the unprecedented dangers to the United States national security after 9/11, n41 national security presiprudence should be accorded wide latitude by the Court in the adjustment (and tradeoffs) of trading liberty and security. n42 Second, Justices should be aware that different presidents [\*889] institute changes in national security presiprudence given their unique perspective and knowledge of threats to the Nation. n43 Third, Justices should be restrained in second-guessing the POTUS and his subordinate national security experts concerning both the existence and duration of national security emergencies and necessary measures to rectify them. "During emergencies, the institutional advantages of the executive are enhanced", n44 moreover, "[b]ecause of the importance of secrecy, speed, and flexibility, courts, which are slow, open, and rigid, have less to contribute to the formulation of national policy than they do during normal times." n45 Fourth, Supreme Court Justices, of course, should not give the POTUS a blank check--even during times of claimed national emergency; but, how much deference to be accorded by the Court is "always a hard question" and should be a function of "the scale and type of the emergency." n46 Fifth, the Court should be extraordinarily deferential to the POTUS and his executive subordinates regarding questions of executive determinations of the international laws of war and military tactics. As cogently explained by Professors Eric Posner and Adrian Vermeule, n47 "the United States should comply with the laws of war in its battle against Al Qaeda"--and I would argue, other lawless terrorist groups like the Taliban--"only to the extent these laws are beneficial to the United States, taking into account the likely response of [\*890] other states and of al Qaeda and other terrorist organizations," n48 as determined by the POTUS and his national security executive subordinates.

#### Conventional wars against nuclear-armed adversaries require primacy to control escalation---otherwise adversaries will use nuclear weapons first

Lieber and Press 10 – Keir A. Lieber, Assistant Professor of Political Science at the University of Notre Dame, and Daryl G. Press, Associate Professor of Political Science at Dartmouth College, March/April 2010, “Second Strike: Is the U.S. Nuclear Arsenal Outmoded?,” Foreign Affairs

Nuclear weapons are a boon for vulnerable states. During the Cold War, the United States deployed them in Europe to defend NATO because Soviet conventional forces seemed overwhelming. Now, the tables are turned: the United States' potential adversaries see nuclear weapons as a vital tool to counter U.S. conventional military superiority. Facing defeat on the battlefield, adversaries would have powerful incentives to use nuclear forces coercively, just as NATO planned to do during the Cold War. The fates of Manuel Noriega, Slobodan Milosevic, Radovan Karadzic, and Saddam Hussein have taught a grim lesson: use every weapon at your disposal to prevent defeat.

When Jan Lodal and James Acton call for the elimination or devaluation of nuclear weapons, they assume that U.S. adversaries can be convinced to accept perpetual vulnerability. The Soviet Union could not talk NATO into surrendering its nuclear arsenal during the Cold War, nor can the United States dupe its adversaries into disarming today. The challenge is to grapple with the problem of deterring nuclear escalation during conventional wars, when U.S. adversaries will have every incentive to use their nuclear arsenals to compel a cease-fire. Toward this end, Washington must retain a range of counterforce capabilities, including conventional and low-casualty nuclear weapons.

Hans Kristensen, Matthew McKinzie, and Ivan Oelrich raise several technical objections concerning the United States' ability to launch a successful counterforce strike. They dispute whether 3,000 pounds per square inch (PSI) of overpressure produced by low-yield airbursts would be enough to wreck Chinese silos. The use of 3,000 PSI in our model, however, is conservative. Many analysts believe that U.S. Cold War estimates exaggerated the hardness of enemy silos, and analysts with considerable technical expertise on this matter believe that our estimated requirement of 3,000 PSI probably overstates the hardness of China's silos. Most important, our results are not sensitive to moderate changes in assumptions about silo hardness. The United States could conduct a low-casualty nuclear strike--producing fewer than 1,000 fatalities--against all 20 Chinese silos even if they were built to withstand 5,000 PSI.

Kristensen, McKinzie, and Oelrich also contend that airbursts alone cannot destroy missile silos. This is incorrect. Airbursts can produce sufficient overpressure to crush the caps that protect missiles in the ground. In fact, the Pentagon assigns "vulnerability numbers" to silos on the basis of their resistance to overpressure. And McKinzie co-authored a 2001 Natural Resources Defense Council report that contradicts the claims that he, Kristensen, and Oelrich make here. The report listed the overpressures required to destroy various Russian missile silos, and it argued that even Russia's silos--which are probably much more robust than China's--are highly vulnerable to a U.S. airburst attack.

Our critics further suggest that the existence of mobile missiles obviates our analysis. If the launchers can be located, the argument goes, conventional weapons are sufficient to destroy them; if the launchers cannot be found, even nuclear weapons are useless. But the greatest challenge of targeting mobile missiles is not locating them momentarily; it is continuously tracking them and identifying where they have stopped. Hitting mobile launchers with conventional weapons requires near-perfect real-time intelligence--locating them within a few dozen yards. Even low-yield nuclear warheads would significantly reduce the targeting problem; locating the launchers within about half a mile would suffice if a five-kiloton warhead were used.

Kristensen, McKinzie, and Oelrich also note that the U.S. military's current delivery systems are not optimized for a counterforce mission: the most accurate systems (bombs and cruise missiles) are not prompt, and the most prompt systems (ballistic missiles) are not the most accurate. This is true. But current U.S. delivery systems are adequate given the weakness of the adversaries the United States now faces. If Washington wishes to retain effective low-casualty counterforce options, the next generation of nuclear delivery systems should further combine prompt delivery with high accuracy.

Lodal tries to link our discussion of counterforce options with the views held by senior officials in the George W. Bush administration. The fact of the matter is that nuclear counterforce options have been a core element of U.S. deterrence doctrine during every administration since Harry Truman's. U.S. strategic planners have understood that for deterrence to be credible, the president needs retaliatory options that he might actually use. Especially today, low-yield nuclear counterforce strikes are a better retaliatory option than high-yield nuclear strikes that, regardless of their target, would kill millions of civilians. The latter would be a disproportionate response to many possible enemy uses of nuclear weapons.

Critics of our policy prescriptions must confront two core issues. First, nuclear weapons have fundamentally changed since the Cold War. They once produced stalemate, and nuclear war once meant mass slaughter. For good or ill, that has changed. The revolution in accuracy means that enemy arsenals can be destroyed, and in ways that produce few civilian casualties. Theories of deterrence and beliefs about strategic stability and nuclear force requirements must be reevaluated accordingly.

### 1nc

#### The federal judiciary should rule to create of a new category of international crime entitled “crimes against future generations” that would prohibit acts and conduct that have severe impacts on the long-term health, safety and means of survival of human groups and collectivities. The federal judiciary should make clear this does not apply to Launch on Warning posture.

#### This solves the 2nd advantage

Jodoin 10

Sébastien Jodoin, Lead Counsel with the Centre for International Sustainable Development Law, “Crimes against Future Generations: Ending Corporate Impunity for Serious Violations of International Law,” September 2010, <http://www.lawofthefuture.org/ul/cms/odoc/0/8/4/84/84.pdf>

In this paper, I argue that the emerging system of international criminal justice has the potential to ¶ deliver both the standards and mechanisms of accountability that are required to correct the most ¶ harmful excesses of transnational corporate activity. I also argue that before international criminal law ¶ can fill all of the gaps in the governance of corporate activities in developing countries, it will be ¶ necessary to expand its scope of application to economic, social, and cultural rights and international ¶ environmental law. This will require the creation of a new category of international crime that would ¶ prohibit acts and conduct that have severe impacts on the long-term health, safety and means of ¶ survival of human groups and collectivities – crimes against future generations.

### 1NC

#### The sanctions bill won’t pass now – Democrats are supporting Obama but continued capital is key to keep them aligned with the base

Voice of America 1/23/14 ("Support Slipping for Iran Sanctions in US Senate")

CAPITOL HILL — More Democratic senators are quietly signaling their opposition to a bill that spells out new sanctions against Iran if negotiations to limit the country’s nuclear program do not yield a final accord. ¶ The bill retains bipartisan support in both houses of Congress, but passage is seen as increasingly unlikely in the Democratic-led Senate amid an intense lobbying effort by the Obama administration to hold off on sanctions while international negotiations proceed. ¶ Senators Patty Murray and Elizabeth Warren are the latest Democrats to announce their opposition to the Iran sanctions bill currently before Congress. ¶ In a letter to constituents in Washington state, Murray said “the administration should be given time to negotiate a strong verifiable comprehensive agreement” on Iran’s nuclear program. At the same time, she pledged to work “to swiftly enact sanctions” if the talks ultimately fail.¶ Similarly, a spokeswoman for Warren says the Massachusetts senator “does not support imposing additional sanctions through new legislation while diplomatic efforts to achieve a long-term agreement are ongoing.”¶ The sanctions bill has 16 Democratic co-sponsors, near-unanimous support among Republicans, and the backing of politically potent pro-Israeli U.S. lobbying groups. But 11 Senate committee chairs, including Murray, currently oppose the bill. ¶ Among Democrats who signed on to the measure late last year, some have grown less vocal in their defense and promotion of the measure in recent weeks. Senate Majority Leader Harry Reid has neither explicitly promised a vote on the bill, nor ruled it out. Congressional expert William Galston of the Brookings Institution says pressure from President Barack Obama appears to be swaying a growing number of Democratic lawmakers. “The White House is determined to prevent this from happening," he said. "The administration believes in the marrow of its bones that the executive branch is the lead negotiator in the matter and that it deserves a chance to conduct its own foreign policy."

#### PC is stopping veto-proof bill

Kampeas 1/14/14 (Ron, The Times of Israel, "Iran Sanctions Have Senate Majority But Veto Looms")

WASHINGTON (JTA) — More than half the United States Senate has signed on to a bill that would intensify sanctions against Iran. But in a sign of the so-far successful effort by the White House to keep the bill from reaching a veto-busting 67 supporters, only 16 Democrats are on board. The number of senators cosponsoring the bill, introduced by Sens. Mark Kirk (R-Illinois) and Robert Menendez (D-New Jersey), reached 59 this week, up from just 33 before the Christmas holiday break.

#### Plan wrecks PC

Douglas L. Kriner 10, Assistant Professor of Political Science at Boston University, 2010, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 68-69

Raising or Lowering Political Costs by Affecting Presidential Political Capital

Shaping both real and anticipated public opinion are two important ways in which Congress can raise or lower the political costs of a military action for the president. However, focusing exclusively on opinion dynamics threatens to obscure the much broader political consequences of domestic reaction—particularly congressional opposition—to presidential foreign policies. At least since Richard Neustadt's seminal work Presidential Power, presidency scholars have warned that costly political battles in one policy arena frequently have significant ramifications for presidential power in other realms. Indeed, two of Neustadt's three "cases of command"—Truman's seizure of the steel mills and firing of General Douglas MacArthur—explicitly discussed the broader political consequences of stiff domestic resistance to presidential assertions of commander-in-chief powers. In both cases, Truman emerged victorious in the case at hand—yet, Neustadt argues, each victory cost Truman dearly in terms of his future power prospects and leeway in other policy areas, many of which were more important to the president than achieving unconditional victory over North Korea."¶ While congressional support leaves the president's reserve of political capital intact, congressional criticism saps energy from other initiatives on the home front by forcing the president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president's foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president's political clout may have immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59 Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest casualty rates in the Iraq War.60¶ In addition to boding ill for the president's perceived political capital and reputation, such partisan losses in Congress only further imperil his programmatic agenda, both international and domestic. Scholars have long noted that President Lyndon Johnson's dream of a Great Society also perished in the rice paddies of Vietnam. Lacking both the requisite funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson gradually let his domestic goals slip away as he hunkered down in an effort first to win and then to end the Vietnam War. In the same way, many of President Bush's highest second-term domestic priorities, such as Social Security and immigration reform, failed perhaps in large part because the administration had to expend so much energy and effort waging a rear-guard action against congressional critics of the war in Iraq.61¶ When making their cost-benefit calculations, presidents surely consider these wider political costs of congressional opposition to their military policies. If congressional opposition in the military arena stands to derail other elements of his agenda, all else being equal, the president will be more likely to judge the benefits of military action insufficient to its costs than if Congress stood behind him in the international arena.

#### Causes Israel strikes

**Perr, 12/24/13 –** B.A. in Political Science from Rutgers University; technology marketing consultant based in Portland, Oregon. Jon has long been active in Democratic politics and public policy as an organizer and advisor in California and Massachusetts. His past roles include field staffer for Gary Hart for President (1984), organizer of Silicon Valley tech executives backing President Clinton's call for national education standards (1997), recruiter of tech executives for Al Gore's and John Kerry's presidential campaigns, and co-coordinator of MassTech for Robert Reich (2002).(Jon, “Senate sanctions bill could let Israel take U.S. to war against Iran” Daily Kos, [http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran#](http://www.dailykos.com/story/2013/12/24/1265184/-Senate-sanctions-bill-could-let-Israel-take-U-S-to-war-against-Iran)

As 2013 draws to close, the negotiations over the Iranian nuclear program have entered a delicate stage. But in 2014, the tensions will escalate dramatically as a bipartisan group of Senators brings a new Iran sanctions bill to the floor for a vote. As many others have warned, that promise of new measures against Tehran will almost certainly blow up the interim deal reached by the Obama administration and its UN/EU partners in Geneva. But Congress' highly unusual intervention into the President's domain of foreign policy doesn't just make the prospect of an American conflict with Iran more likely. As it turns out, the Nuclear Weapon Free Iran Act essentially empowers Israel to decide whether the United States will go to war against Tehran. On their own, the tough new sanctions imposed automatically if a final deal isn't completed in six months pose a daunting enough challenge for President Obama and Secretary of State Kerry. But it is the legislation's commitment to support an Israeli preventive strike against Iranian nuclear facilities that almost ensures the U.S. and Iran will come to blows. As Section 2b, part 5 of the draft mandates: If the Government of Israel is compelled to take military action in legitimate self-defense against Iran's nuclear weapon program, the United States Government should stand with Israel and provide, in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force, diplomatic, military, and economic support to the Government of Israel in its defense of its territory, people, and existence. Now, the legislation being pushed by Senators Mark Kirk (R-IL), Chuck Schumer (D-NY) and Robert Menendez (D-NJ) does not automatically give the President an authorization to use force should Israel attack the Iranians. (The draft language above explicitly states that the U.S. government must act "in accordance with the law of the United States and the constitutional responsibility of Congress to authorize the use of military force.") But there should be little doubt that an AUMF would be forthcoming from Congressmen on both sides of the aisle. As Lindsey Graham, who with Menendez co-sponsored a similar, non-binding "stand with Israel" resolution in March told a Christians United for Israel (CUFI) conference in July: "If nothing changes in Iran, come September, October, I will present a resolution that will authorize the use of military force to prevent Iran from developing a nuclear bomb." Graham would have plenty of company from the hardest of hard liners in his party. In August 2012, Romney national security adviser and pardoned Iran-Contra architect Elliott Abrams called for a war authorization in the pages of the Weekly Standard. And just two weeks ago, Norman Podhoretz used his Wall Street Journal op-ed to urge the Obama administration to "strike Iran now" to avoid "the nuclear war sure to come." But at the end of the day, the lack of an explicit AUMF in the Nuclear Weapon Free Iran Act doesn't mean its supporters aren't giving Prime Minister Benjamin Netanyahu de facto carte blanche to hit Iranian nuclear facilities. The ensuing Iranian retaliation against to Israeli and American interests would almost certainly trigger the commitment of U.S. forces anyway. Even if the Israelis alone launched a strike against Iran's atomic sites, Tehran will almost certainly hit back against U.S. targets in the Straits of Hormuz, in the region, possibly in Europe and even potentially in the American homeland. Israel would face certain retaliation from Hezbollah rockets launched from Lebanon and Hamas missiles raining down from Gaza. That's why former Bush Defense Secretary Bob Gates and CIA head Michael Hayden raising the alarms about the "disastrous" impact of the supposedly surgical strikes against the Ayatollah's nuclear infrastructure. As the New York Times reported in March 2012, "A classified war simulation held this month to assess the repercussions of an Israeli attack on Iran forecasts that the strike would lead to a wider regional war, which could draw in the United States and leave hundreds of Americans dead, according to American officials." And that September, a bipartisan group of U.S. foreign policy leaders including Brent Scowcroft, retired Admiral William Fallon, former Republican Senator (now Obama Pentagon chief) Chuck Hagel, retired General Anthony Zinni and former Ambassador Thomas Pickering concluded that American attacks with the objective of "ensuring that Iran never acquires a nuclear bomb" would "need to conduct a significantly expanded air and sea war over a prolonged period of time, likely several years." (Accomplishing regime change, the authors noted, would mean an occupation of Iran requiring a "commitment of resources and personnel greater than what the U.S. has expended over the past 10 years in the Iraq and Afghanistan wars combined.") The anticipated blowback? Serious costs to U.S. interests would also be felt over the longer term, we believe, with problematic consequences for global and regional stability, including economic stability. A dynamic of escalation, action, and counteraction could produce serious unintended consequences that would significantly increase all of these costs and lead, potentially, to all-out regional war.

#### Global war

**Reuveny, 10** – professor in the School of Public and Environmental Affairs at Indiana University (Rafael, “Unilateral strike could trigger World War III, global depression” Gazette Xtra, 8/7, - See more at: <http://gazettextra.com/news/2010/aug/07/con-unilateral-strike-could-trigger-world-war-iii-/#sthash.ec4zqu8o.dpuf>)

A unilateral Israeli strike on Iran’s nuclear facilities would likely have dire consequences, including a regional war, global economic collapse and a major power clash. For an Israeli campaign to succeed, it must be quick and decisive. This requires an attack that would be so overwhelming that Iran would not dare to respond in full force. Such an outcome is extremely unlikely since the locations of some of Iran’s nuclear facilities are not fully known and known facilities are buried deep underground. All of these widely spread facilities are shielded by elaborate air defense systems constructed not only by the Iranians but also the Chinese and, likely, the Russians as well. By now, Iran has also built redundant command and control systems and nuclear facilities, developed early warning systems, acquired ballistic and cruise missiles and upgraded and enlarged its armed forces. Because Iran is well-prepared, a single, conventional Israeli strike—or even numerous strikes—could not destroy all of its capabilities, giving Iran time to respond. Unlike Iraq, whose nuclear program Israel destroyed in 1981, Iran has a second-strike capability comprised of a coalition of Iranian, Syrian, Lebanese, Hezbollah, Hamas, and, perhaps, Turkish forces. Internal pressure might compel Jordan, Egypt and the Palestinian Authority to join the assault, turning a bad situation into a regional war. During the 1973 Arab-Israeli War, at the apex of its power, Israel was saved from defeat by President Nixon’s shipment of weapons and planes. Today, Israel’s numerical inferiority is greater, and it faces more determined and better-equipped opponents. After years of futilely fighting Palestinian irregular armies, Israel has lost some of its perceived superiority—bolstering its enemies’ resolve. Despite Israel’s touted defense systems, Iranian coalition missiles, armed forces, and terrorist attacks would likely wreak havoc on its enemy, leading to a prolonged tit-for-tat. In the absence of massive U.S. assistance, Israel’s military resources may quickly dwindle, forcing it to use its alleged nuclear weapons, as it had reportedly almost done in 1973. An Israeli nuclear attack would likely destroy most of Iran’s capabilities, but a crippled Iran and its coalition could still attack neighboring oil facilities, unleash global terrorism, plant mines in the Persian Gulf and impair maritime trade in the Mediterranean, Red Sea and Indian Ocean. Middle Eastern oil shipments would likely slow to a trickle as production declines due to the war and insurance companies decide to drop their risky Middle Eastern clients. Iran and Venezuela would likely stop selling oil to the United States and Europe. From there, things could deteriorate as they did in the 1930s. The world economy would head into a tailspin; international acrimony would rise; and Iraqi and Afghani citizens might fully turn on the United States, immediately requiring the deployment of more American troops. Russia, China, Venezuela, and maybe Brazil and Turkey—all of which essentially support Iran—could be tempted to form an alliance and openly challenge the U.S. hegemony. Russia and China might rearm their injured Iranian protege overnight, just as Nixon rearmed Israel, and threaten to intervene, just as the U.S.S.R. threatened to join Egypt and Syria in 1973. President Obama’s response would likely put U.S. forces on nuclear alert, replaying Nixon’s nightmarish scenario. Iran may well feel duty-bound to respond to a unilateral attack by its Israeli archenemy, but it knows that it could not take on the United States head-to-head. In contrast, if the United States leads the attack, Iran’s response would likely be muted. If Iran chooses to absorb an American-led strike, its allies would likely protest and send weapons but would probably not risk using force. While no one has a crystal ball, leaders should be risk-averse when choosing war as a foreign policy tool. If attacking Iran is deemed necessary, Israel must wait for an American green light. A unilateral Israeli strike could ultimately spark World War III.

# Case

## Solvency

#### The plan can’t set a precedent---Roberts is a sly dog

William D. Araiza, Law Prof @ Brooklyn, Summer 2012, “PLAYING WELL WITH OTHERS-BUT STILL WINNING,” 46 Ga. L. Rev. 1059, ln

How can a judge undermine precedent while still following it? This Essay considers the methods by which Supreme Court Justices may weaken precedent without explicitly overruling cases by strategically adopting an approach to stare decisis that is less explicitly aggressive than their colleagues'. Adding to the literature of "stealth overruling," this Essay considers examples of such methods from Chief Justice Roberts's first five years on the Supreme Court. These examples indicate that Chief Justice Roberts knows how to engage in stealth overruling and, more broadly, how to use his colleagues' preferences to maintain a formal commitment to judicial humility while achieving jurisprudential change. As such, they reveal important insights about how Justices can operate strategically to achieve their preferences within both the opportunities and the confines inherent in a multi-judge court. After five years, many have accused the Roberts Court of aggressively attacking precedent. No less a figure than Justice O'Connor, whose retirement marked the effective start of that Court, has expressed concern about the Roberts Court's willingness to overrule prior decisions. n1 Then-Judge Roberts's famous confirmation hearing analogy of judging to umpiring n2 and his professed respect for stare decisis n3 make for a dramatic narrative in which a nominee piously describes a humble role for judges but then, once safely confirmed, sets out with a wrecking ball. The charge may have merit, but a short essay is not the vehicle to make that determination. Simply pointing to a few high-profile [\*1061] overrulings, as critics sometimes do, proves little. n4 Rather, an in-depth examination of the issue requires considering the situations where the overruling dog did not bark-that is, where the Court could have overruled a prior case but declined to do so. n5 Such an investigation also calls for both historical perspective and nuance. n6 Reaching interesting conclusions about the Roberts Court's treatment of stare decisis requires that we identify a baseline of how previous Courts have treated that principle. If impressionistic conclusions based on a few dramatic examples are enough to consider the charge proven, then the Rehnquist n7 and Warren n8 Courts are presumably guilty also. Moreover, not all overrulings are created equal. Determining the extent of the Roberts Court's alleged disregard of precedent also requires considering the importance of the precedents the Court has in fact rejected. Consider Justice White's dissent in INS v. Chadha. n9 White characterized the majority's rejection of the legislative veto as effectively striking down hundreds of statutes and eliminating a then-major feature of the modern administrative state. n10 Chadha was not a case where the Court overruled precedent. Justice White's complaint about the far-reaching nature of the Court's decision, however, reminds us that identifying judicial aggressiveness, whatever its form, requires [\*1062] more than simply adding up the number of cases where the Court has acted aggressively. n11 This Essay considers the Roberts Court and stare decisis from a different angle. It examines several methods by which Chief Justice Roberts arguably has used the multi-judge nature of the Supreme Court to his advantage in undermining precedent without explicitly calling for its overruling. n12 These examples do not prove that the Court as a whole, or the Chief Justice in particular, is bent on undoing the work of prior Courts. Instead, they illustrate the ways in which a Justice can work within the formal confines of precedent to achieve fundamentally different results, either in the short or long term. n13 The methods described below depend in part on the distinction between the result a court reaches in a case and the reasoning it employs. The nature of the Supreme Court as a multi-judge court makes this distinction possible: often times, the Court may agree on a result but split sharply on its reasoning. n14 This opens up room for a creative Justice to undermine precedent, even as the Justice expresses reasons that appear moderate-in particular, more moderate than those who are more inclined to overrule explicitly. In so doing, the Justice may create the conditions for the ultimate rejection of that precedent, even while publicly counseling restraint-indeed, even while voting to uphold that [\*1063] precedent. n15 In short, this Essay considers methods by which Justices can play well with others-both those that came before (via respect for stare decisis) and current colleagues (by strategically positioning themselves among them)-and still achieve their ultimate goal. n16 This Essay situates itself at the intersection of two ongoing debates about judicial behavior. The first examines the concept of stealth overruling-the practice of limiting or even eviscerating a precedent while ostensibly remaining faithful to it. n17 This phenomenon has become a major topic of scholarly discussion during the last five years, n18 as scholars have identified and analyzed examples of the Roberts Court engaging in such conduct-conduct generally thought to have resulted from the replacement of a sometimes centrist Justice O'Connor with a more reliably conservative Justice Alito. n19 The examples in this Essay illustrate instances where the Court or a plurality thereof arguably has engaged in such conduct. n20 The lessons one can draw from these examples will help shape an understanding of the stealth overruling phenomenon, and the extent to which the Roberts Court performs it. Second, this Essay engages the debate about the implications of the Supreme Court's character as a collegial body. Scholars long have acknowledged that critiques of the Court must account for its collegial nature rather than simply treating it as a purposive [\*1064] individual. n21 This Essay contributes to that debate by considering how Chief Justice Roberts may in certain cases strategically use his colleagues' calls for more explicit overruling of precedent as a tool in maintaining his and the Court's reputation as faithful to stare decisis while nevertheless pushing the law away from precedents.

## Wars

#### We are in a global environment parallel to pre-world war 1- nuclear war likely

MacMillian 12/14 (Margaret MacMillian portrait is a professor of international history at Oxford University where she is warden of St. Antony’s College. She is also a history professor at the University of Toronto. MacMillan is an acclaimed author, whose titles include The War that Ended Peace: The Road to 1914; Dangerous Games: The Uses and Abuses of History; Women of the Raj: The Mothers, Wives, and Daughters of the British Empire in India; and the multiple-award-winning Paris 1919: Six Months that Changed the World, among others. MacMillan is a Fellow of the Royal Society of Literature and is a member of numerous editorial boards, including First World War Studies, “The Rhyme of History”, <http://www.brookings.edu/research/essays/2013/rhyme-of-history?cid=tco_1219131>, December 14, 2013)

Earlier this year I was on holiday in Corsica and happened to wander into the church of a tiny hamlet in the hills where I found a memorial to the dead from World War I. Out of a population that can have been no more than 150, eight young men, bearing among them only three last names, had died in that conflict. Such lists can be found all over Europe, in great cities and in small villages. Similar memorials are spread around the globe, for the Great War, as it was known prior to 1940, also drew soldiers from Asia, Africa, and North America. World War I still haunts us, partly because of the sheer scale of the carnage—10 million combatants killed and many more wounded. Countless civilians lost their lives, too, whether through military action, starvation, or disease. Whole empires were destroyed and societies brutalized. But there’s another reason the war continues to haunt us: we still cannot agree why it happened. Was it caused by the overweening ambitions of some of the men in power at the time? Kaiser Wilhelm II and his ministers, for example, wanted a greater Germany with a global reach, so they challenged the naval supremacy of Great Britain. Or does the explanation lie in competing ideologies? National rivalries? Or in the sheer and seemingly unstoppable momentum of militarism? As an arms race accelerated, generals and admirals made plans that became ever more aggressive as well as rigid. Did that make an explosion inevitable? Or would it never have happened had a random event in an Austro-Hungarian backwater not lit the fuse? In the second year of the conflagration that engulfed most of Europe a bitter joke made the rounds: “Have you seen today’s headline? ‘Archduke Found Alive: War a Mistake.’” That is the most dispiriting explanation of all—that the war was simply a blunder that could have been avoided. The search for explanations began almost as soon as the guns opened fire in the summer of 1914 and has never stopped. Scholars have combed through archives from Belgrade to Berlin looking for the causes. An estimated 32,000 articles, treatises, and books on World War I have been published in English alone. So when a British publisher took me out to lunch on a lovely spring day in Oxford five years ago and asked me if I would like to try my hand at one of history’s greatest puzzles, my first reaction was a firm no. Yet afterward I could not stop thinking about this question that has haunted so many. In the end I succumbed. The result is yet another book, my own effort to understand what happened a century ago and why. It was not just academic curiosity that drove me, but a sense of urgency as well. If we cannot determine how one of the most momentous conflicts in history happened, how can we hope to avoid another such catastrophe in the future? Just look at the actual and potential conflicts that dominate the news today. The Middle East, made up largely of countries that received their present borders as a consequence of World War I, is but one of many areas around the globe that is in turmoil, and has been for decades. Now there’s a civil war in Syria, which has raised the spectre of a wider conflict in the region while also troubling relations among the major powers and testing their diplomatic skills. The Bashar al-Assad regime’s use of poison gas—a weapon first deployed in the trench warfare of 1914, then outlawed because world opinion viewed it as barbaric—nearly precipitated American airstrikes. Commentary on these developments was filled with references to the guns of that long-ago August. Just as policymakers then discovered they had started something they could not stop, so this past summer we feared that such airstrikes might lead to a wider and more long-lasting conflict than anyone in President Barack Obama’s administration could foresee. The one-hundredth anniversary of 1914 should make us reflect anew on our vulnerability to human error, sudden catastrophes, and sheer accident. So we have good reason to glance over our shoulders even as we look ahead. History, said Mark Twain, never repeats itself but it rhymes. The past cannot provide us with clear blueprints for how to act, for it offers such a multitude of lessons that it leaves us free to pick and choose among them to suit our own political and ideological inclinations. Still, if we can see past our blinders and take note of the telling parallels between then and now, the ways in which our world resembles that of a hundred years ago, history does give us valuable warnings. THE PROMISE AND PERIL OF GLOBALIZATION, THEN AND NOW Though the era just before World War I, with its gas lighting and its horse-drawn carriages, seems very far off and quaint, it is similar in many ways—often unsettlingly so—to ours, as a look below the surface reveals. The decades leading up to 1914 were, like our own time, a period of dramatic shifts and upheavals, which those who experienced them thought of as unprecedented in speed and scale. The use of electricity to light streets and homes had become widespread; Einstein was developing his general theory of relativity; radical new ideas like psychoanalysis were finding a following; and the roots of the predatory ideologies of fascism and Soviet communism were taking hold. Globalization—which we tend to think of as a modern phenomenon, created by the spread of international businesses and investment, the growth of the Internet, and the widespread migration of peoples—was also characteristic of that era. Made possible by many of the changes that were taking place at the time, it meant that even remote parts of the world were being linked by new means of transport, from railways to steamships, and by new means of communication, including the telephone, telegraph, and wireless. Then, as now, there was a huge expansion in global trade and investment. And then as now waves of immigrants were finding their way to foreign lands—Indians to the Caribbean and Africa, Japanese and Chinese to North America, and millions of Europeans to the New World and the Antipodes. Taken together, all these changes were widely seen, particularly in Europe and America, as clear evidence of humanity’s progress, suggesting to many that Europeans, at least, were becoming too interconnected and too civilized to resort to war as a means of settling disputes. The growth of international law, the Hague disarmament conferences of 1899 and 1907, and the increasing use of arbitration between nations (of the 300 arbitrations between 1794 and 1914 more than half occurred after 1890) lulled Europeans into the comforting belief that they had moved beyond savagery. The fact that there had been an extraordinary period of general peace since 1815, when the Napoleonic wars ended, further reinforced this illusion, as did the idea that the interdependence of the countries of the world was so great that they could never afford to go to war again. This was the argument made by Norman Angell, a small, frail, and intense Englishman who had knocked around the world as everything from a pig farmer to a cowboy in the American West before he found his calling as a popular journalist. National economies were bound so tightly together, he maintained in his book, The Great Illusion, that war, far from profiting anyone, would ruin everyone. Moreover, in a view widely shared by bankers and economists at the time, a large-scale war could not last very long because there would be no way of paying for it (though we now know that societies have, when they choose, huge resources they can tap for destructive purposes). A sensational best-seller after it was published in Britain in 1909 and in the United States the following year, its title—meant to make the point that it was an illusion to believe there was anything to be gained by taking up arms—took on a cruel and unintended irony only a few short years later. What Angell and others failed to see was the downside of interdependence. In Europe a hundred years ago the landowning classes saw their prosperity undermined by cheap agricultural imports from abroad and their dominance over much of society undercut by a rising middle class and a new urban plutocracy. As a result, many of the old upper classes flocked to conservative, even reactionary, political movements. In the cities, artisans and small shopkeepers whose services were no longer needed were also drawn to radical right-wing movements. Anti-Semitism flourished as Jews were made the scapegoat for the march of capitalism and the modern world. The world is witnessing unsettling parallels today. Across Europe and North America, radical right-wing movements like the British National Party and the Tea Party provide outlets for the frustration and fears that many feel as the world changes around them and the jobs and security they had counted on disappear. Certain immigrants—such as Muslims—come to stand in as the enemy in some communities. Globalization can also have the paradoxical effect of fostering intense localism and nativism, frightening people into taking refuge in the comfort of small, like-minded groups. One of the unexpected results of the Internet, for example, is how it can narrow horizons so that users seek out only those whose views echo their own and avoid websites that might challenge their assumptions. Globalization also makes possible the widespread transmission of radical ideologies and the bringing together of fanatics who will stop at nothing in their quest for the perfect society. In the period before World War I, anarchists and revolutionary socialists across Europe and North America read the same works and had the same aim: to overthrow the existing social order. The young Serbs who assassinated Archduke Ferdinand of Austria at Sarajevo were inspired by Nietzsche and Bakunin, just as their Russian and French counterparts were. Terrorists from Calcutta to Buffalo imitated each other as they hurled bombs onto the floors of stock exchanges, blew up railway lines, and stabbed and shot those they saw as oppressors, whether the Empress Elizabeth of Austria-Hungary or U.S. President William McKinley. Today new technologies and social media platforms provide new rallying points for fanatics, enabling them to spread their messages even more rapidly and to even wider audiences around the globe. Often they claim divine inspiration. All of the world’s major religions—Buddhism, Hinduism, Judaism, Christianity, and Islam—have produced their share of terrorists prepared to commit murder and mayhem in their name. Thus we see the young offspring of Muslim parents from Pakistan and Bangladesh, even those born or raised in the United Kingdom and North America, going off to make common cause with Syrian rebels, the Taliban in Afghanistan, or one of the branches of al Qaeda in North Africa or Yemen, despite sharing almost nothing—culturally or ethnically—with those whose cause they have taken up. Many Germans held reciprocal views. Germany, they said, was due its place in the sun—and an empire on which the sun would never set—but Britain and the British navy were standing in its way. When Kaiser Wilhelm and his naval secretary Admiral Alfred von Tirpitz decided to build a deep-water navy to challenge British naval supremacy, the unease in Britain about Germany’s growing commercial and military power turned into something close to panic. Erskine Childers’ 1903 best-seller, The Riddle of the Sands, described a German invasion plot, stirring British fears about their lack of military preparedness. Rumours spread, fanned by the new mass circulation newspapers, of German guns buried under London in preparation for war, and 50,000 waiters in British restaurants who were really German soldiers. For its part, the German government seriously feared a pre-emptive attack on its fleet by the British navy, and the German public had its own share of invasion scares. On several occasions before 1914 parents in coastal towns kept their children home from school in anticipation of an imminent landing by British marines. Cooler heads on both sides hoped to wind down the increasingly expensive naval race, but in each country, public opinion, then a new and incalculable factor in the making of policy, pushed in the direction of hostility rather than friendship. Even the blood ties between the German and the British royal families, which might have been expected to ameliorate these mutual antipathies, did quite the opposite. Kaiser Wilhelm, that strange and erratic ruler, hated his uncle King Edward VII, “the arch-intriguer and mischief-maker in Europe,” who, in turn, dismissed his nephew as a bully and a show-off. It is tempting—and sobering—to compare today’s relationship between China and the U.S. with that between Germany and England a century ago. Now, as then, the march of globalization has lulled us into a false sense of safety. Countries that have McDonald’s, we are told, will never fight each other. Or as President George W. Bush put it when he issued his National Security Strategy in 2002, the spread of democracy and free trade across the world is the surest guarantee of international stability and peace. What happens when an established hegemonic power is challenged by rising powers? And what does it take to successfully manage such transitions? Yet the extraordinary growth in trade and investment between China and the U.S. since the 1980s has not served to allay mutual suspicions. Far from it. As China’s investment in the U.S. increases, especially in sensitive sectors such as electronics and biotechnology, so does public apprehension that the Chinese are acquiring information that will put them in a position to threaten American security. For their part, the Chinese complain that the U.S. treats them as a second-rate power and, while objecting to the continuing American support for Taiwan, they seem dedicated to backing North Korea, no matter how great the provocations of that maverick state. At a time when the two countries are competing for markets, resources, and influence from the Caribbean to Central Asia, China has become increasingly ready to translate its economic strength into military power. Increased Chinese military spending and the build-up of its naval capacity suggest to many American strategists that China intends to challenge the U.S. as a Pacific power, and we are now seeing an arms race between the two countries in that region. The Wall Street Journal has published authoritative reports that the Pentagon is preparing war plans against China—just in case. Will popular feeling, fanned and inflamed by the mass media in the same way that it was in the early years of the 20th century, make these hostilities even more difficult to control? Today the speed of communications puts greater than ever pressure on governments to respond to crises, and to do so quickly, often before they have time to formulate a measured response. RISING TIDES OF NATIONALISM AND SECTARIANISM We are witnessing, as much as the world of 1914, shifts in the international power structure, with emerging powers challenging the established ones. Just as national rivalries led to mutual suspicions between Britain and the newly ascendant Germany before 1914, the same is happening between the U.S. and China now, and also between China and Japan. And now as then, public opinion can make it difficult for statesmen to maneuver and defuse hostilities. Although political leaders like to think they can use popular feeling for their own ends, they often find that it can be unpredictable. In the 1990s, the Chinese Communist Party launched what it called a Patriotic Education Campaign to inculcate the young with nationalist sentiments, but the leaders lost control of their followers. A propaganda campaign against Japan inspired mobs to sack Japanese businesses and offices. For their part the Japanese, who have attempted to lower the temperature in the past—apologizing for Japanese crimes during World War II for example—are less willing to do so today. The new prime minister, Shinzo Abe, plays to a growing and vociferous Japanese nationalism. He has announced that he intends to revise the constitution so that he can increase Japan’s military spending, and during this year’s election campaign he made a point of visiting one of the obscure and largely uninhabited islands which is in dispute with China in the East China Sea. As a result of the current standoff and occasional naval muscle flexing there and in the South China Sea over these islands, attitudes in both countries are hardening, limiting the options for their leaders. And there is potential for conflict between China and two of its other neighbors—Vietnam and Malaysia—as well. Once lines are drawn between nations, it can be difficult to reach across them. The U.S. and Iran have had a difficult relationship ever since the Shah was overthrown in 1979 (and indeed it was not all that easy even during his reign). The events of subsequent years—including the hostage taking, the American shooting down of an Iranian airliner, Iran’s quest for its own bomb, and the U.S.’s attempt to block it, all to the accompaniment of much angry rhetoric—have kept them far apart. When one side does make conciliatory noises, as Iran’s new President Hassan Rouhani has done recently, memories of past wrongs perpetuate suspicions about present intentions, complicating such attempts. Misreadings and manipulations of history can also fuel national grievances and bring war closer. In the Europe of a hundred years ago the growth of nationalist feeling—encouraged from above but rising from the grass roots where historians, linguists, and folklorists were busy creating stories of ancient and eternal enmities—did much to cause ill will among nations who might otherwise have been friends. Teutons had always been menaced by Slavs from the east, or so learned German professors assured their audiences before 1914, and therefore peace between Germany and Russia must be impossible. In the Balkans, competing nationalisms, each with its own story of triumphs and defeats, drove apart peoples such as Serbs, Albanians, and Bulgars who had lived in relative harmony for centuries—and are still driving them apart today. Often, as in families, the most bitter of these sectarian quarrels arise among those most similar to each other. Witness the religious and ethnic wars in the former Yugoslavia, or the spreading civil wars in the Middle East, and indeed throughout the Muslim world, where the doctrinal differences between Sunni and Shia are hardening into ideological and political conflict. What Freud called the “narcissism of small differences” can lead to violence and death—a danger amplified if the greater powers choose to intervene as protectors of groups outside their own borders who share a religious or ethnic identity with them. Here too we can see ominous parallels between present and past. Before World War I Serbia financed and armed Serbs within the Austrian Empire, while both Russia and Austria stirred up the peoples along each other’s borders. And we all know how Hitler used the existence of German minorities in Poland and Czechoslovakia to dismember those countries. Today Saudi Arabia backs Sunnis—and Sunni-majority states—around the world, while Iran has made itself the protector of the Shia, funding radical movements such as Hezbollah. FIRST COUSINS AT WAR Enmities between lesser powers can have unexpected and far-reaching consequences when outside powers choose sides to promote their own interests. In the years before World War I, Russia chose to become Serbia's protector, both in the name of Pan-Slavism and also to extend its influence down to Istanbul and the straits leading out of the Black Sea. When Austria-Hungary declared war on Serbia, Germany, feeling it had to support Austria-Hungary, declared war on Russia, even at the risk of a world war. Because of alliances and friendships developed over the previous decades, France and then Britain were also drawn in to fight alongside Russia. Thus the war turned almost at once into a wider one. While history does not repeat itself precisely, the Middle East today bears a worrying resemblance to the Balkans then. A similar mix of toxic nationalisms threatens to draw in outside powers as the U.S., Turkey, Russia, and Iran all look to protect their interests and their clients. Will Russia feel it has to support Syria, the same way it once felt it had to support its client Serbia, and Germany felt it had to support Austria-Hungary? We must hope that Russia will have more control over the Damascus government than it had over Serbia in 1914. But so far international efforts to defuse the Syria crisis have been complicated by Russia's investment in the survival of the Assad regime in the face of the threat of U.S. military action. Great powers often face the dilemma that their very support for smaller ones encourages their clients to be reckless. And their clients often slip the leading strings of their patrons. The U.S. has funnelled huge amounts of money and equipment to Israel and Pakistan, for example, as China has done to North Korea, yet that has not given either the Americans or the Chinese commensurate influence over the policies of those countries. Israel, while hugely dependent on America, has sometimes tried to push Washington into taking pre-emptive military action. And Pakistan gave sanctuary to America's global enemy number one, Osama bin Laden. Before 1914 the great powers talked of their honor. Today U.S. Secretary of State John Kerry refers to America's credibility or prestige. It amounts to much the same thing. Moreover, alliances and friendships forged for defensive reasons or mutual advantage can look quite different from other perspectives. Before 1914 German statesmen assumed that the military pact between France and Russia was really designed to destroy Germany. Today Pakistan feels threatened by the links between India and Afghanistan, while the U.S. tends to see a challenge in China's increasing influence in Central Asia, Africa, and Latin America. Making matters worse, patron nations are reluctant to abandon their clients, no matter how far they have run amok and no matter what dangers they themselves are being led into, because to do so incurs the risk of making the greater power appear weak and indecisive. Before 1914 the great powers talked of their honor. Today U.S. Secretary of State John Kerry refers to America's credibility or prestige. It amounts to much the same thing. THE COMPLACENCIES OF PEACE Like our predecessors a century ago, we assume that large-scale, all-out war is something we no longer do. To be sure, we are aware that people are still being killed in conflicts around the world, many of them civil, ethnic, or religious, as in Syria and Iraq today. But since 1945 the world has seen far fewer wars between states and it has survived dozens of relatively minor conflicts, from Korea to the Congo, with the number of casualties dwarfed by those sustained in the two world wars. The Iran-Iraq war of the 1980s, with perhaps as many as 500,000 dead, and the protracted war in the Great Lakes region of Africa stand out as the main exceptions in recent years. In short, we have grown accustomed to peace as the normal state of affairs. We expect that the international community will deal with conflicts when they arise, and that they will be short-lived and easily containable. But this is not necessarily true. The Socialist leader Jean Jaurès, a man of great wisdom who tried unsuccessfully to staunch the rise of militarism in France in the early years of the 20th century, understood this very well. “Europe has been afflicted by so many crises for so many years,” he said on the eve of World War I, and “it has been put dangerously to the test so many times without war breaking out, that it has almost ceased to believe in the threat and is watching the further development of the interminable Balkan conflict with decreased attention and reduced disquiet.” The international community as a whole has created institutions dedicated to defusing conflict and forcing aggressors to back down—and they can be effective for long periods of time. The Concert of Europe, that collection of the Great Powers, kept the peace for much of the century after 1815. Yet we should keep in mind that it did not last forever. Institutions as much as people get old and tired. Although they gave it lip service, the Great Powers eventually ceased to believe in the idea of effective and concerted action to avoid conflict, and the world order began to break down—with disastrous consequences. In 1908, when Austria-Hungary enraged Serbia by annexing Bosnia, where some 44 percent of the population were Serbs, Germany forced Russia, Serbia’s protector, to back down. Tsar Nicholas II wrote to his mother: “It is quite true that the form and method of Germany’s action—I mean towards us—has simply been brutal and we won’t forget it.” He didn’t. And when the crisis of 1914 erupted, Tsar Nicholas, a weak man who had until then preferred peace to war, was determined, like most of his ministers, that this time Russia would not give in to pressure from Germany or its ally Austria-Hungary. In 1911 Italy defied an unwritten agreement among the powers to maintain the integrity of the Ottoman Empire and seized Tripoli and Cyrenaica, the two North African provinces which later became Libya. The Powers made disapproving noises but did nothing. In the Balkans Wars of 1912 and 1913 the Powers managed to impose a settlement of sorts, but increasingly they saw themselves as being on opposing sides. By the time of the crisis of 1914, the kaiser and his ministers greeted British suggestions that the Great Powers work together to bring a peaceful solution with derision. We expect that the international community will deal with conflicts when they arise, and that they will be short-lived and easily containable. But this is not necessarily true. Are we seeing a similar weakening of the international order today? The United Nations, which might be seen as a successor to the Concert of Europe, has at times intervened successfully to maintain the peace or restore it after war has broken out. But in the Security Council today, Russia and China habitually vote against U.N. interventions, which they see as a cover for promoting Western interests. In the case of Syria, Assad has so far been able to defy international opinion and kill his own people because he has the Russians as well as the Iranians with him. President Vladimir Putin and his foreign minister dismissed the charges that Assad has used poison gas as “absurd.” THE ULTIMATE DETERRENT—AND OTHER DELUSIONS The pre-war arms race was actually a good thing, a British diplomat, Sir Francis Bertie, told his king, George V: “The best guarantee of peace between the Great Powers is that they are all afraid of each other.” However, he was wrong to put his faith in that early version of the theory of mutually assured destruction. Too many of those who commanded Europe’s armies were only too ready to go to war, either because they thought the time was advantageous or they believed they could win. But in the Cold War, when the U.S. and Soviet Union possessed almost all of the world’s nuclear weapons, mutually assured destruction did work. Both sides recognized that atomic and hydrogen bombs were so destructive that they had in effect rendered themselves unusable. If the two countries had waged all-out war, the thermonuclear Armageddon would have left no winners anywhere in the world, only losers. Can we assume that deterrence will continue to work today? We have entered a new and potentially perilous era. There are now nine countries with nuclear arsenals, including Pakistan, a fractious if not failing state, and North Korea, which has proved itself as reckless as it is repressive. Depending on whether Iran gets the bomb, numerous other states—including Japan perhaps— are likely to exercise their own nuclear options. That would make for a very dangerous world indeed, which could lead to a recreation of the kind of tinderbox that exploded in the Balkans a hundred years ago—only this time with mushroom clouds. Like the world of 1914, we are living through changes in the nature of war whose significance we are only starting to grasp. But even if all nations were to agree that nuclear war simply does not make sense, there are drawbacks and dangers to the wars being waged with conventional weapons, which many of our military leaders fail to understand. Like the world of 1914, we are living through changes in the nature of war whose significance we are only starting to grasp. A hundred years ago, most military planners and the civilian governments who watched from the sidelines got the nature of the coming war catastrophically wrong. The great advances of Europe’s science and technology and the increasing output of its factories during its long period of peace had made going on the attack much more costly to human life. The killing zone—the area that attacking soldiers had to cross in the face of deadly enemy fire—had expanded hugely from 100 yards in the Napoleonic wars to over 1,000 yards by 1914. And the rifles, machine guns, and artillery they faced were firing faster, more accurately, and with more deadly explosives. There was plenty of evidence from the smaller wars fought before 1914—the American Civil War, the Franco-Prussian War of 1870-71, and the Russo-Japanese War of 1904-5—about what this would mean on the battlefield. Soldiers attacking, no matter how brave, would suffer horrific losses, while defenders sat in the relative security of their trenches, behind sandbags and barbed wire. Yet the best brains in Europe’s general staffs refused to face the new reality, explaining away or ignoring the uncomfortable facts, just as today many choose to ignore the overwhelming scientific evidence of global warming. The European powers went into war in 1914 with plans that, without exception, were predicated on an offensive strategy. As a British major general said in 1914, “The defensive is never an acceptable role to the Briton, and he makes little or no study of it.” The British—and the soldiers of many other nations—paid a high price for that willful blindness. A comparable fallacy in our own time is that because of our advanced technology, we can deliver quick, focused, and overpowering military actions—“surgical strikes,” “shock and awe”—resulting in conflicts that will be short and limited in their impact, and victories that will be decisive. Challenging the faith that such low-cost victories are possible, Major General H.R. McMaster, the commanding officer at Fort Benning, Georgia, and something of an iconoclast, recently wrote in the New York Times that many of the assumptions that had guided the American military before 9/11 and up to and through the early years of the wars in Iraq and Afghanistan were wishful thinking. To view “successful military operations as ends in themselves, rather than just one instrument of power that must be coordinated with others to achieve, and sustain, political goals” is, he believes, a mistake. The wars in Iraq and Afghanistan, he said, were not just matters of military strength but “contests of will.” Fighting them without an understanding of the social, economic, and historical factors involved will doom us to “the pipe dream of easy war,” as the title of his piece puts it. And indeed there do not seem to be any easy wars. Increasingly we are seeing asymmetrical wars between well-armed, organized forces on one side and low-level insurgencies on the other, which can span not just a region but a continent or even the globe, and where there is not one enemy but a shifting coalition of local warlords, religious warriors, and other interested parties. Think of Afghanistan or Syria, where local and international players are mingled and what constitutes victory is difficult to define. In such wars those ordering military action must consider not just the combatants on the ground but the elusive yet critical factor of public opinion. Thanks to social media, every air strike, artillery shell, and cloud of poison gas that hits civilian targets is now filmed and tweeted around the world. The ultimate goal of military action must be to achieve political ends, whether to win over local opinion by providing security, to bring competing parties to the table to negotiate, or to persuade the world at large of the rightness of its actions. Those who believe in “precision strikes” and their potential to deliver meaningful victories must understand that or else we, like those who preceded us a hundred years ago, will continue to fight the wrong kinds of battles. FAILURES AT THE TOP "You can't always get the leaders you want…but the world wants leaders who can see the other side." Listen to the author's take on the requirements of leadership in today's world. With different leadership World War I might have been avoided. Europe in 1914 needed a Bismarck or a Churchill with the strength of character to stand up to pressure and the capacity to see the large strategic picture. Instead the key powers had weak, divided, or distracted leaders. Kaiser Wilhelm had come down on the side of peace in earlier crises, but he knew that officers in his beloved army referred to him contemptuously as Wilhelm the Timid. Thus, in 1914, when his generals were urging him that the time had come for a preventive war on Russia, he was afraid of appearing weak. Just after the assassination of the heir to the throne in Sarajevo, when Germany issued the infamous “blank cheque” promising to back Austria-Hungary come what may, Wilhelm said—repeatedly—to a close friend: “This time I shall not give in.” His chancellor, Theobald von Bethmann Hollweg, devastated by the recent death of his wife, accepted the prospect of war with glum resignation. And in Austria-Hungary itself, the war party led by the generals now had the upper hand, for the assassination of the archduke had ironically removed the one man who might have resisted the drift to war. As it was, the old and ailing emperor, Franz Josef I, was left alone to face the hawks. On the other side, Russia, like Germany, had a weak ruler with too much power—and too great a fear of appearing weak. Tsar Nicholas hesitated but in the end gave way to his own war party and ordered the general mobilization that made war with Germany inevitable. The clinching argument, apparently, came from one of his ministers, who told him he could not save his throne or the lives of himself and his family unless he showed himself to be resolute against Russia’s enemies. The British government, which might have acted decisively enough early in the crisis to have deterred Germany, was preoccupied by the prospect of a civil war over Ireland. And the prime minister, Herbert Asquith, who was also distracted by a new love affair, allowed the slide to war to gather momentum, even as Sir Edward Grey, the foreign secretary, floated ineffectual proposals for negotiations. In Washington President Woodrow Wilson watched the events with dismay from his place at the side of his dying wife, but at first he saw no good reason why the U.S. should intervene in a European quarrel. Contrast the behavior of the men in power in 1914 with that of John F. Kennedy nearly five decades later, during the Cuban Missile Crisis, when the world faced an even greater threat. The young and relatively untried U.S. president was urged by virtually his entire top military leadership as well as many of the civilians in his administration to confront the Soviet Union vigorously, up to the point of invading Cuba and so risking an all-out nuclear war. Standing up to them, he opted instead for negotiations with Moscow and, in the end, preserved the peace. It was perhaps fortunate that he had just read Barbara Tuchman’s great The Guns of August and was very mindful of the ways nations can blunder into war. Today the American president is facing a series of politicians in China who, like those in Germany a century ago, are deeply concerned that their nation be taken seriously. In Putin he must deal with a Russian nationalist who is both wilier and stronger than the unfortunate Tsar Nicholas. Barack Obama, like Woodrow Wilson, is a great orator, capable of laying out his vision of the world and inspiring Americans. But like Wilson at the end of the 1914-18 war, Obama is dealing with a partisan and uncooperative Congress. Perhaps even more worrying, he may be in a position similar to Asquith’s in 1914, presiding over a country so divided internally that it is unwilling or unable to play an active and constructive role in the world. WANTED: A WORLD POLICEMAN Britain, which once played an international leadership role during the 19th and the first part of the 20th centuries, in the end found the demands too great and the costs too high. After World War II the British people were no longer willing and the British economy no longer capable of sustaining such a role. The U.S. has so far been prepared to act as the guarantor of international stability, but may not be willing—or able—to do so indefinitely. Over a century ago, at a time when it was well-launched on its rise to world power status and in the process of translating its huge and growing economic strength into military and foreign policy, it began to assume the mantle of leadership. Teddy Roosevelt and Woodrow Wilson, though they were two very different types of men, shared the feeling that the U.S. had a moral obligation to the world. “We have become a great nation,” Roosevelt said, “and we must behave as beseems a people with such responsibilities.” Since then, there have been times when isolationist sentiments have threatened this commitment, but the U.S. has for the most part remained deeply engaged in world affairs, through World War II, to the effort to contain Soviet aggression during the Cold War, and to the present global war on terrorism. With the collapse of the Soviet Union and its empire at the end of the 1980s, the U.S., perhaps without reflecting, continued to act as the world’s hegemon, assuming responsibilities that ranged from stabilizing the international economy to ensuring security. The long agony of Bosnia finally came to an end in 1995 when American pressure in combination with NATO military action persuaded the Serbs to enter into the Dayton Agreement. And although America’s actions in Iraq and Libya were certainly not met with universal acclaim, even in the U.S. itself, Saddam Hussein and Moammar Gaddafi had few friends and many enemies by the time they met their ends at American hands. Today, however, the U.S., while still the strongest power in the world, is not as powerful as it once was. It has suffered military setbacks in Iraq and Afghanistan, and has had difficulty finding allies who will stand by it, as the current Syrian crisis demonstrates. Uncomfortably aware that they have few reliable friends and many potential enemies, the Americans are now considering a return to a more isolationist policy. Is the U.S. now reaching the end of its tether, as Britain did before it? If it retreats even partially from its global role, which powers will dominate the international order, and what will that mean for the prospects of world peace? It is difficult to guess what might come next. Russia may dream of its Soviet past when it was a superpower, but with a chaotic economy and a declining population its ambitions far outrun its capacities. China is a rising power but its preoccupations are likely to be focused on Asia. Further afield it will concentrate, as it is doing at present, on securing the resources it needs for its economy, while probably being reluctant to intervene in far-off conflicts where it has little at stake. The European Union talks of a world role but so far has shown little inclination to develop its military resources, and its internal divisions make it increasingly difficult for Brussels to get agreement on foreign policy. The countries in the BRICS group—Brazil, Russia, India, China, and South Africa—are joined together more in theory than reality. The hope of a coalition of democracies, from Asia to America, willing to intervene in the name of humanitarianism or international stability, reminds me of the old story of the mice and the cat—who is going to be first to put the bell around the animal’s neck? As for public opinion, the citizenry within individual countries, preoccupied with domestic issues, has become increasingly unwilling to fund or take part in foreign adventures. It may take a moment of real danger to force the major powers of this new world order to come together in coalitions able and willing to act. Action, if it does come, may be too little and too late, and the price we all pay for that delay may well be high. Instead of muddling along from one crisis to another, now is the time to think again about those dreadful lessons of a century ago in the hope that our leaders, with our encouragement, will think about how they can work together to build a stable international order.

## Accidents

#### If you’re just a declaratory statement, they don’t solve accidents --- our posture doesn’t change

#### No launch on warning posture now –

Ford 2008

(Dr. Christopher Ford is a Senior Fellow and Director of the Center for Technology and Global Security at the Hudson Institute in Washington. D.C. He previously served as U.S. Special Representative for Nuclear Nonproliferation, and as a Principal Deputy Assistant Secretary of State, “Dilemmas of Nuclear Force “De-Alerting””, Presented to the International Peace Institute Policy Forum, October 7, 2008, <http://www.hudson.org/files/documents/De-Alerting%20FINAL2%20(2).pdf>)

Since the end of the Cold War, moreover, the U.S. force posture has evolved further away from maintaining a rapid reaction capability and high alert levels, and today few of the operationally deployed U.S. nuclear forces are maintained on a ready alert status capable of immediate launch even if this were American policy. The United States carefully maintains the ability to respond promptly to any attack in order to complicate any adversary’s planning and thereby enhance deterrence, but it does not assume LOW. (Nor, however, does it ever discuss precisely what its actual alert status is. No nuclear weapons state does.12) As the U.S. Ambassador to the CD quipped at one point, in response to a request that the United States abandon its “hair-trigger” alert policy, “Frankly, in order to take action to comply with this request, we would first have to put our weapons on ‘hair-trigger alert,’ so we could then de-alert them. The fact is that U.S. nuclear forces are not and have never been on ‘hair-trigger alert.’”13

#### **The Dead Hand is disabled**

McDonald ‘12 – Asia-Pacific Editor of the Sydney Morning Herald (Hamish, 08/06, “Australian bases still in Russian sights - soldier; THE COLD WAR,” Lexis)

In the 1980s, Soviet strategists became worried the high accuracy of new US missiles might allow a disabling first strike. Colonel Yarynich was involved in setting up the terrifying "Perimitr" (perimeter) dead-hand system which set off a retaliatory strike automatically from sensor data. It is now disabled. Like many Cold War warriors, the colonel is now involved in efforts to reduce the risk of nuclear war. He hopes negotiations on nuclear force reductions and de-alerting of remaining forces will pick up between Washington and Moscow after the US election in November and set an example for other nuclear powers. "We must act," he said. "It is necessary and it is possible to remove the finger from the trigger."

#### Can’t know if it exists

**Pry ‘99** (Peter Vincent, Former Member – CIA and Professional Military Advisor – House of Representatives, War Scare: Russia and America on the Nuclear Brink, p. 153)

General Korobushin and some other Russian military officers have told U.S. command and control specialist Bruce Blair that in the event a nuclear surprise attack kills all or most commanders able to launch Russia’s missiles, Russian strategic nuclear forces will launch on their own, through an automated system known as DEAD HAND. This is supposedly a computer linked to the strategic forces and to sensors scattered around Russia. The sensors are designed to detect nuclear blast and radiation effects. If, in the absence of orders from its human superiors, DEAD HAND decides that Russia is under nuclear attack, the computer will assume those superiors are dead and launch doomsday. How or whether DEAD HAND can distinguish between a U.S., Chinese, British, French, Israeli, Indian, Pakistani, or North Korean nuclear attack is unclear. Perhaps distinguishing between aggressors and neutrals is irrelevant to Moscow, once Russia’s elite are corpses. Or, DEAD HAND may be disinformation. Russian military officers may have concocted it to dissuade theUnited States from attempting a nuclear surprise attack. A February 1999 Russian article on command and control acknowledges, “Reports have appeared repeatedly … about the so-called dead hand, the system of automated sanctioning of the use of nuclear weapons. To this day there is no unequivocal answer tothe question ofwhether or notin fact it exists**.”**

#### No Indo-Pak War

Wright ‘13 (Thomas Wright is a fellow at the Brookings Institution in the Managing Global Order project. Previously, he was executive director of studies at the Chicago Council on Global Affairs, a lecturer at the Harris School of Public Policy at the University of Chicago, and senior researcher for the Princeton Project on National Security, "Don’t Expect Worsening of India, Pakistan Ties," <http://blogs.wsj.com/indiarealtime/2013/01/16/dont-expect-worsening-of-india-pakistan-ties/>, January 16, 2013)

There’s no end for now to the hostile rhetoric between India and Pakistan. But that doesn’t necessarily presage anything more drastic. Pakistan claims another of its soldiers died Tuesday night in firing across the Line of Control in Kashmir, the divided Himalayan region claimed by both nations. Indian army chief, Gen. Bikram Singh, on Wednesday, said Pakistan had opened fire and India retaliated. “If any of their people have died, it would have been in retaliation to their firing,” Gen. Singh said. ”When they fire, we also fire.” It was the latest in tit-for-tat recriminations over deaths in Kashmir that began last week. Pakistan claimed one of its soldiers died on Jan. 6. Two days later, India said Pakistani forces killed two of its soldiers and mutilated the bodies. Tuesday night, Indian Prime Minister Manmohan Singh said the mutilations meant it could not be “business as usual” between the countries. That has worried some that peace talks, which have been in train for two years, could be about to break down. Mr. Singh’s comments built on a drumbeat of anger from India. Gen. Singh, Monday called the mutilations “unpardonable” and said India withheld the right to retaliate to Pakistan aggression when and where it chooses. Pakistan Foreign Minister Hina Rabbani Khar, who is in the U.S., Tuesday termed the Indian army chief’s comments as “very hostile.” There are some other worrying signs. India said Tuesday it was delaying the start of a visa-on-arrival program meant to make it easier for some Indians and Pakistanis to visit each other’s countries. The visa program, like talks on opening up bilateral trade, is supposed to pave the way toward broader peace talks that would encompass thornier issues, like how to solve the Kashmir problem. Also Tuesday, nine Pakistani hockey players who had come to participate in a tournament in India were sent home due to fears of protests and violence against them. Still, there’s little benefit for either side to escalate what is now still sporadic firing over the Line of Control, the de facto border in Kashmir. Pakistan is embroiled in its own political meltdown sparked by the Supreme Court’s decision Tuesday to order the arrest of Prime Minister Raja Pervez Ashraf on allegations of corruption. Tens of thousands of protesters Tuesday took to the streets in Islamabad, and remain there today, demanding immediate elections and a greater role for the army and Supreme Court in politics. Pakistan’s military continues to play an important political role, dominating defense and foreign policy. But it has so far shown little sign of mounting a full-blown coup despite persistent rumors of military intervention. Pakistan’s government must hold national elections by May, meaning the next few months are likely to be choppy ones in Pakistan politics. In such an environment, the military is unlikely to want to dial up tensions with India. On the Indian side, despite Mr. Singh’s unusually strident tone Tuesday, there also will be pause before taking matters to the next level. Mr. Singh has put immense personal political capital into trying to improve ties with Pakistan since he came to power in 2004. Last year, he hosted Pakistan President Asif Ali Zardari in New Delhi and promised a return visit. Such a trip is clearly off the table for now. But India still has put too much into peace talks to throw away the progress made so far on visas, trade and other issues. Even Gen. Singh, India’s army chief, Monday said he did not believe the latest flare-up would lead to a broader escalation in violence and an official end to a 2003 ceasefire agreement in Kashmir. The clashes so far, he noted, have been limited to specific areas of the Line of Control.

#### No risk of US-Russia War – not even accidental

**Ball 5** (Desmond, Professor – Strategic Defense Studies Centre at Australian National University, “The Probabilities of ‘On the Beach’ Assessing Armageddon Scenarios in the 21st Century, May, <http://www.manningclark.org.au/papers/se05_ball.html>)

The **prospects of a nuclear war between the United States and Russia must now be deemed fairly remote**. **There are now no geostrategic issues that warrant nuclear competition and no inclination in either** Washington or Moscow **to provoke such issues. US and Russian strategic forces have been taken off day-to-day alert and their ICBMs ‘de-targeted’, greatly reducing the possibilities of war by accident, inadvertence or miscalculation**. On the other hand, while the US-Russia strategic competition is in abeyance, there are several aspects of current US nuclear weapons policy which are profoundly disturbing. In December 2001 President George W. Bush officially announced that the United States was withdrawing from the Anti-Ballistic Missile (ABM) Treaty of 1972, one of the mainstays of strategic nuclear arms control during the Cold War, with effect from June 2002, and was proceeding to develop and deploy an extensive range of both theatre missile defence and national missile defence (NMD) systems. The first anti-missile missile in the NMD system, designed initially to defend against limited missile attacks from China and North Korea, was installed at Fort Greely in Alaska in July 2004. The initial system, consisting of sixteen interceptor missiles at Fort Greely and four at Vandenberg Air Force in California, is expected to be operational by the end of 2005. The Bush Administration is also considering withdrawal from the Comprehensive Test Ban Treaty and resuming nuclear testing. (The last US nuclear test was on 23 September 1992). In particular, some key Administration officials believe that testing is necessary to develop a ‘new generation’ of nuclear weapons, including low-yield, ‘bunkerbusting’, earth-penetrating weapons specifically designed to destroy very hard and deeply buried targets (such as underground command and control centres and leadership bunkers).

#### Empirics disprove accidents escalate- Cold War disproves

Quinlan ‘9 (Sir Michael Quinlan, Former Permanent Under-Secretary of State UK Ministry of Defense, Thinking About Nuclear Weapons: Principles, Problems, Prospects, p. 63-69, The book reflects the author's experience across more than forty years in assessing and forming policy about nuclear weapons, mostly at senior levels close to the centre both of British governmental decision-making and of NATO's development of plans and deployments, with much interaction also with comparable levels of United States activity in the Pentagon and the State department, 2009)

There have certainly been, across the decades since 1945, many known accidents involving nuclear weapons, from transporters skidding off roads to bomber aircraft crashing with or accidentally dropping the weapons they carried (in past days when such carriage was a frequent feature of readiness arrangements it no longer is). A few of these accidents may have released into the nearby environment highly toxic material. None however has entailed a nuclear detonation. Some commentators suggest that this reflects bizarrely good fortune amid such massive activity and deployment over so many years. A more rational deduction from the facts of this long experience would however be that the probability of any accident triggering a nuclear explosion is extremely low. It might be further nested that the mechanisms needed to set of such an explosion are technically demanding, and that in a large number of ways the past sixty years have seen extensive improvements in safety arrangements for both the design and the handling of weapons. It is undoubtedly possible to see respects in which, after the cold war, some of the factors bearing upon risk may be new or more adverse; but some are now plainly less so. The years which the world has come through entirely without accidental or unauthorized detonation have included early decades in which knowledge was sketchier, precautions were less developed, and weapon designs were less ultra-safe than they later became, as well as substantial periods in which weapon numbers were larger, deployments immure widespread arid diverse, movements more frequent, and several aspects of doctrine and readiness arrangements more tense. Similar considerations apply to the hypothesis of nuclear war being mistakenly triggered by false alarm. Critics again point to the fact, as it is understood, of numerous occasions when initial steps in alert sequences for US nuclear forces were embarked upon, or at least called for, by indicators mistaken or misconstrued. In none of these instances, it is accepted, did matters get at all near to nuclear launch—extraordinary good fortune again, critics have suggested. But the rival and more logical inference from hundreds of events stretching over sixty years of experience presents itself once more: that the probability of initial misinterpretation

leading far towards mistaken launch is remote. Precisely because any nuclear weapon processor recognizes the vast gravity of any launch, release sequences have many steps, and human decision is repeatedly interposed as well as capping the sequences. To convey that because a first step was prompted the world somehow came close to accidental nuclear war is wild hyperbole, rather like asserting, when a tennis champion has lost his opening service game, that he was nearly beaten in straight sets. History anyway scarcely offers any ready example of major war started by accident even before the nuclear revolution imposed an order-of-magnitude increase of caution. In was occasion conjectured that nuclear war might be triggered by the real but accidental or unauthorized launch of a strategic nuclear-weapon delivery system in the direction of a potential adversary. No such launch is known to have occurred in over sixty years. The probability of it is therefore very low. But even if it did happen, the further hypothesis of it initiating a general nuclear exchange is far-fetched. It fails to consider the real situation of decision-makers, as pages 63-4 have brought out. The notion that cosmic holocaust might be mistakenly precipitated in this way belongs to science fiction.

## future crimes

### A2 future crimes - ilaw

#### Chinese can effectively use soft power now, which is uniquely effective- US international model fails

**Hölkemeyer 12-6**-13 [Patricia Rodríguez Hölkemeyer, research professor and deputy director of the School of Political Science at the University of Costa Rica, Honorary Member of the Academy Research Center of Central Private, “China's forthcoming soft power as a natural result of international events,” <http://www.china.org.cn/china/Chinese_dream_dialogue/2013-12/06/content_30822607.htm>]

On the other side, Deng'saphorism that China should never strive to attain global hegemony has been widely respected by its leaders and reformers. Nevertheless, today circumstances have changed. China's ancient thinkers rejected the idea of searching for hegemony through stratagems, and favored instead the accomplishment of what Mencius and Xuzi called humane authority. Nevertheless, at the present moment China does not need to strive for the attainment of a leading role because the present world circumstances are catapulting her to become a world superpower. What are the present world circumstances that have put China in the position to have a say in international affairs without having to strive for hegemony? Why is the Western 'presumptive paradigm' (Rodrik)for development failing contrastingly to the pragmatic and experimental learning paradigm of the Chinese reformers that Joshua Cooper Ramo dubbed the Beijing Consensus? The ex-ante presumption of knowledge, a characteristic of the Western countries and global institutions, very probably will be ceding its place to a Deweyian pragmatic change of paradigm, according to which, even the mere conception of what is the best form of democracy is fallible and contextual. ¶ Very probably, the paradigm of 'arrogance' will be giving place to a paradigm based on what the political scientist, Karl Deutsch, once called 'humility'. Deutsch defined its opposite "arrogance" as the posture of permitting oneself the luxury of not to learn (because it is supposed that one has already learned everything), while he defines 'humility' as the attitude of the political leader who is always open to learning from others. The West has forgotten that the concept of feedback (learning form the other) is the biggest bite to the tree of knowledge that humanity has undertaken in the last two thousand years (Bateson). A new concept of democracy has to take into consideration this advancement as the Chinese reform process has done. Western countries' presumptive frame of mind has been slowly losing momentum. The present circumstances provide a clear indication that one of the most cared institutions, the Western multiparty democracy system, has been losing its ability to learn, and thus, its capacity to offer creative solutions to its own and the world's problems. As a former US Ambassador to China said two years ago, the willingness of Chinese leaders to learn from their errors and adapt to new circumstances "differs sharply from what one encounters in Washington, where there's such concern over our inability to correct the problems that are making our political system — in the eyes of many Americans — increasingly dysfunctional."¶ The US has to enhance its learning capacity if it wants to lead in world affairs in cooperation with the newly emerging superpower. The West has to acknowledge that the so called American values are not universal, that harmony implies unity in diversity, that the concept of democracy is fallible and mutable, and that hegemony has to cede to a well gained humane authority, not only abroad but domestically.¶ Since W. W. II, the US attained the soft power that China lacked. Nevertheless, the US insistence in the maintenance of an hegemonic international order applying the smart power (a new concept of Joseph Nye) stratagems, has culminated in the observed failure of the misnamed Arab Spring, even if the application of smart power (instigation through political activism, and the posterior use of military power if necessary) was partially successful in the so called Color Revolutions (Rodríguez-Hölkemeyer, 2013).¶ Given the present circumstances (as the effects of 9/11, the global financial crisis, the formation of the G20, the global rejection of US espionage stratagems, the failure of the Pivot to the East policy due to the attention the US had to devote to the failed Arab Spring, to an ailing Europe, and to its own domestic financial and political problems) China's possibilities to acquire soft power and to exert its positive influence way the international governing institutions and in international relations, are now real. The world needs a new international relations paradigm, other than the Western style democracy promotion policy through political activism (see the book of the present US Ambassador to Russia, Michael McFaul, Advancing Democracy Abroad)orchestrated by organized minorities (NGOs) who want to impose the so called 'American values' in countries with different historical paths, culture and aspirations. The new paradigm will have to be founded in ethics, wisdom, cooperation, confidence-building, and on the recognition that knowledge is fallible and hypothetical, and that with globalization world circumstances and interactions are prone to change. This new paradigm has already been successfully tested in the 35 years of China's own economic and institutional reform process and diplomatic practice. This adaptive and learning-prone attitude of the Chinese leaders, even to the point of adapting (not adopting) western suggestions and institutions when necessary, is the underlying cause of the success of the admirable and unique Chinese development path. As Mencius and Xuzi's observations suggest that a country cannot exert international influence if its own house is not in order.¶ In sum, the present article states that now China possesses a substantive experiential wisdom to start a very productive dialogue with the World. Especially in a moment when it is beginning to be clear to many in the World, that to strive for maintaining a hegemonic world order (Mearsheimer) by means of dubious stratagemsis --according to Lao Tzu thought—the kind of response when intentions are going against the natural course of events.

#### Increased US international influence trades off with China’s- competing narratives

**Dynon ’13** [Nicholas, PhD candidate at Macquarie University and is coordinator of the Line 21 project, an online resource on Chinese public diplomacy, has served diplomatic postings in Shanghai, Beijing and the Fiji Islands, worked in Australia’s Parliament House as a departmental liaison officer to the Immigration Minister, holds postgraduate degrees from the ANU and the University of Sydney, “Soft Power: A U.S.-China Battleground?” June 19, <http://thediplomat.com/2013/06/soft-power-a-u-s-china-battleground/>]

Strip away the ostensibly benign surface of public diplomacy, cultural exchanges and language instruction, and it becomes clear that the U.S. and China are engaged in a soft power conflagration – a protracted cultural cold war. On one side bristles incumbent Western values hegemon, the U.S. On the other is China, one of the non-Western civilizations that Samuel Huntington noted back in 1993 “increasingly have the desire, the will and the resources to shape the world in non-Western ways.”¶ But to shape the world in non-Western ways means engaging in a soft power battlespace against an incumbent who already holds the high ground. Liu comments that in regions deeply influenced by Western cultures, political systems and values, the “latecomer” China is considered a “dissident force." Under such circumstances, “it is rather difficult for China to attract Western countries with its own political and cultural charisma, let alone to replace their positions.”¶ According to this and similar viewpoints, China’s difficulty in projecting soft power across the world is in part due to the way the U.S. leverages its own soft power.

Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that U.S. soft power is driven by the imperative of “maintaining US hegemony in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as the “China threat theory,” which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken myriad internal measures to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### (A) Chinese soft power restrains aggression- solves regional stability

**Huang ’13** [Chin-Hao Huang, Ph.D. Candidate and a Russell Endowed Fellow in the Political Science and International Relations (POIR) Program at the University of Southern California (USC). Until 2009, he was a researcher at the Stockholm International Peace Research Institute (SIPRI) in Sweden. He specializes in international security and comparative politics, especially with regard to China and Asia, and he has testified before the Congressional U.S.-China Economic and Security Review Commission on Chinese foreign and security policy, “China’s Soft Power in East Asia,” <http://dornsife.usc.edu/assets/sites/451/docs/Huang_FINAL_China_Soft_Power_and_Status.pdf>]

China’s authoritarian regime is thus the biggest obstacle to its efforts to construct and project soft ¶ power. At the same time, if the government decides to take a different tack—a more constructive ¶ approach that embraces multilateralism—**Chinese soft power could be a positive force multiplier that contributes to peace and stability in the region**. A widely read and cited article published in ¶ Liaowang, a leading CCP publication on foreign affairs, reveals that there are prospects for China being socialized into a less disruptive power that complies with regional and global norms: ¶ Compared with past practices, China’s diplomacy has indeed displayed a new face.

If China’s diplomacy before the 1980s stressed safeguarding of national ¶ security, and its emphasis from the 1980s to early this century is on the creation ¶ of an excellent environment for economic development, then the focus at ¶ present is to take a more active part in international affairs and play the role that a responsible power should on the basis of satisfying the security and ¶ development interests.47 The newly minted leadership in Beijing provides China with an opportunity to reset its soft-power approach and the direction of its foreign policy more generally. If the new leadership pursues a ¶ different course, Washington should seize on this opportunity to craft an effective response to ¶ better manage U.S.-China relations and provide for greater stability in the Asia-Pacific region. For example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • The U.S. pivot to the region could be further complemented with an increase in soft-power promotion, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific. Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

#### Causes nuclear war- draws in the US

**Eland 12-10**-13 [Ivan Eland,PhD in Public Policy from George Washington University, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including Principal Defense Analyst at the Congressional Budget Office, has served as Evaluator-in-Charge for the U.S. General Accounting Office, “Stay Out of Petty Island Disputes in East Asia,” <http://www.huffingtonpost.com/ivan-eland/stay-out-of-petty-island-_b_4414811.html>]

One of the most dangerous international disputes that the United States could get dragged into has little importance to U.S. security -- the disputes nations have over small islands (some really rocks rising out of the sea) in East Asia. Although any war over these islands would rank right up there with the absurd Falkland Islands war of 1982 between Britain and Argentina over remote, windswept sheep pastures near Antarctica, any conflict in East Asia always has the potential to escalate to nuclear war.

And unlike the Falklands war, the United States might be right in the atomic crosshairs.¶ Of the two antagonists in the Falklands War, only Britain had nuclear weapons, thus limiting the possibility of nuclear escalation. And although it is true that of the more numerous East Asian contenders, only China has such weapons, the United States has formal alliance commitments to defend three of the countries in competition with China over the islands -- the Philippines, Japan, and South Korea -- and an informal alliance with Taiwan. Unbeknownst to most Americans, those outdated alliances left over from the Cold War implicitly still commit the United States to sacrifice Seattle or Los Angeles to save Manila, Tokyo, Seoul, or Taipei, should one of these countries get into a shooting war with China. Though a questionable tradeoff even during the Cold War, it is even less so today. The "security" for America in this implicit pledge has always rested on avoiding a faraway war in the first place using a tenuous nuclear deterrent against China or any other potentially aggressive power. The deterrent is tenuous, because friends and foes alike might wonder what rational set of U.S. leaders would make this ridiculously bad tradeoff if all else failed. ¶ Of course these East Asian nations are not quarreling because the islands or stone outcroppings are intrinsically valuable, but because primarily they, depending on the particular dispute involved, are in waters that have natural riches -- fisheries or oil or gas resources. ¶ In one dispute, the Senkaku or Diaoyu dispute -- depending on whether the Japanese or Chinese are describing it, respectively -- the United States just interjected itself, in response to the Chinese expansion of its air defense zone over the islands, by flying B-52 bombers through this air space to support its ally Japan. The United States is now taking the nonsensical position that it is neutral in the island kerfuffle, even though it took this bold action and pledged to defend Japan if a war ensues. Predictably and understandably, China believes that the United States has chosen sides in the quarrel.¶ Then to match China, South Korea extended its own air defense zone -- so that it now overlaps that of both China and Japan. But that said, as a legacy of World War II, South Korea seems to get along better with China, its largest trading partner, than it does with Japan. Also, South Korea and Japan have a dispute over the Dokdo or Takeshima Islands, depending on who is describing them, in the Sea of Japan. Because the United States has a formal defense alliance with each of those nations and stations forces in both, which would it support if Japan and South Korea went to war over the dispute? It's anyone's guess.

### A2 future crimes – enviro impact

**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.

**No impact to the environment- their impacts are all hype**

**Ridder 2008** – PhD, School of Geography and Environmental Studies, University of Tasmania (Ben, Biodiversity And Conservation, 17.4, “Questioning the ecosystem services argument for biodiversity conservation”) \*ES = environmental services

The low resilience assumption

Advocates of the conservation of biodiversity tend not to acknowledge the distinction between resilient and sensitive ES. This **‘low resilience assumption’ gives rise to, and is reinforced by the almost ubiquitous claim within the conservation literature that ES depend on biodiversity**. **An extreme example of this claim is made by the Ehrlichs in Extinction. They state that “all [ecosystem services] will be threatened if the rate of extinctions continues to increase**” then observe that attempts to artificially replicate natural processes “are no more than partially successful in most cases. Nature nearly always does it better. When society sacrifices natural services for some other gain… it must pay the costs of substitution” (Ehrlich and Ehrlich 1982, pp. 95–96). This assertion—that the only alternative to protecting every species is a world in which all ES have been substituted by artificial alternatives—is an extreme example of the ‘low resilience assumption’. Paul Ehrlich revisits this flawed logic in 1997 i nhis response (with four co-authors) to doubts expressed by Mark Sagoff regarding economic arguments for species conservation (Ehrlich et al. 1997, p. 101). The claim that ES depend on biodiversity is also notably present in the controversial Issues in Ecology paper on biodiversity and ecosystem functioning (Naeem et al. 1999) that sparked the debate mentioned in the introduction. This appears to reflect a general tendency among authors in this field (e.g., Hector et al. 2001; Lawler et al. 2002; Lyons et al. 2005). Although such authors may not actually articulate the low resilience assumption, presenting such claims in the absence of any clarification indicates its influence. **That the low resilience assumption is largely false is apparent in the number of examples of species extinctions that have not brought about catastrophic ecosystem collapse and decline in ES, and in the generally limited ecosystem influence of species**

on the cusp of extinction. These issues have been raised by numerous authors, although given the absence of systematic attempts to verify propositions of this sort, the evidence assembled is usually anecdotal and we are forced to trust that an unbiased account of the situation has been presented. Fortunately a number of highly respected people have discussed this topic, not least being the prominent conservation biologist David Ehrenfeld. In 1978 he described the ‘conservation dilemma’, which “arises on the increasingly frequent occasions when we encounter a threatened part of Nature but can find no rational reason for keeping it” (Ehrenfeld 1981, p. 177). He continued with the following observation: Have there been permanent and significant ‘resource’ effects of the extinction, in the wild, of John Bartram’s great discovery, the beautiful tree Franklinia alatamaha, which had almost vanished from the earth when Bartram first set eyes upon it? Or a thousand species of tiny beetles that we never knew existed before or after their probable extermination? Can we even be certain than the eastern forests of the United States suffer the loss of their passenger pigeons and chestnuts in some tangible way that affects their vitality or permanence, their value to us? (p. 192) Later, at the first conference on biodiversity, Ehrenfeld (1988) reflected that **most species “do not seem to have any conventional value at all”** and that **the rarest species are “the ones least likely to be missed… by no stretch of the imagination can we make them out to be vital cogs in the ecological mach ine”** (p. 215). The appearance of comments within the environmental literature that are consistent with Ehrenfeld’s—and from authors whose academic standing is also worthy of respect—is uncommon but not unheard of (e.g., Tudge 1989; Ghilarov 1996; Sagoff 1997; Slobodkin 2001; Western 2001). The low resilience assumption is also undermined by the overwhelming tendency for the protection of specific endangered species to be justified by moral or aesthetic arguments, or a basic appeal to the necessity of conserving biodiversity, rather than by emphasising the actual ES these species provide or might be able to provide humanity. Often the only services that can be promoted in this regard relate to the ‘scientific’ or ‘cultural’ value of conserving a particular species, and the tourism revenue that might be associated with its continued existence. **The preservation of such services is of an entirely different order compared with the collapse of human civilization predicted by the more pessimistic environmental authors**. **The popularity of the low resilience assumption is in part explained by the increased rhetorical force** of arguments that highlight connections between the conservation of biodiversity, human survival and economic profit. However, it needs to be acknowledged by those who employ this approach that a number of negative implications are associated with any use of economic arguments to justify the conservation of biodiversity.

# Block

# Crimes

### China DA – Impact 2NC

#### Chinese influence solves global problems and warfare

**Chengde ’13** [Yen, research Fellow at the China Institute of International Studies on Sino-US relations, “Achievements and Challenges of China’s Diplomacy in 2012,” <http://www.ciis.org.cn/english/2013-06/03/content_6001789.htm>]

China’s diplomacy achieved success after success, and China has begun appearing on the international political center stage, playing a decisive role in regional and world affairs. There are many reasons for this. The main reasons are as follows:¶ ¶ 1. Rising national strength¶ Recently Chinese leader in an important speech Xi Jinping pointed out: “If we are backward, we’ll be bullied. Development is the only road to self-reliance.” In today’s world, power politics remain prevalent. China has always opposed power politics, never engaged in power politics, and never allowing other countries to engage in power politics. In defiance of hegemonic powers, China has maintained its own independence, sovereignty, and security, and has constantly achieved diplomatic breakthroughs. That is mainly because China has resorted to self-reliance, that is, its growing national strength and national power.¶ In the 30-plus years since the reform and opening-up drive started, China experienced a golden age of development, with an economic growth rate of 9.7% on average. During the 10 year period between 2002 and 2011, its average annual economic growth rate was 10.7%, four times that of the United States over the same period. The share of China’s economic output in the world’s total rose from 4.4% to 10%, making China the world’s second largest source of economic output. Moreover, it has continuously narrowed its gap with the United States, the largest economy. In 2000, China’s GDP was only one-tenth that of the United States. But in 2011, China’s GDP reached 47.3 trillion yuan, or about $7.4 trillion, equivalent to 48% of the U.S. GDP. In 2012, China’s economic growth slowed, but still maintained an average growth rate of 7.7% in the first three quarters of the year. Its growth for the whole year was expected to exceed the growth target of 7.5%, 3.5 times U.S. economic growth for the same year. China’s total economic output for 2012 is expected to reach half of the total U.S. economy. Experts predict that by 2030 China’s total economic output is likely to surpass that of the United States, becoming the world’s largest economy. As early as in 2007, China’s economic contribution to the global economic growth had overtaken that of the United States, becoming the main engine of world economic growth. In 2011, China’s total foreign trade amounted to $3.68 trillion, making it the world’s second largest foreign trade country. Its gap with the United States, the world’s largest foreign trade country, in the same year, was only $44.76 billion. In 2012, China’s foreign trade grew much faster than that of the United States, and China is expected to surpass the United States as the world’s largest foreign trade country. By the end of October 2012, China’s foreign exchange reserves had reached $3.29 trillion, accounting for one-third of the total global foreign exchange reserves. China’s science, technology, and national defense capabilities have continued to make significant progress. Meanwhile, China has also rapidly increased its soft power, raising its comprehensive national strength to a new level. With its 30-plus years of rapid development, China has created “a wonder of the world.” Its road to development has been highly praised by the international community. Its growing strength has provided material support to China’s diplomatic victories.¶ ¶ 2. Correct policies Peace and development are China’s top policy priorities. Historically, major powers rose by resorting to war and external expansion. Such countries were certain to pursue hegemony. But China has broken this model and created a new development approach: peaceful rise by relying on its own internal motivation and pursuing mutually beneficial, opening-up strategies; that is, socialism with Chinese characteristics. China will never seek hegemony, engage in power politics, or pursue expansionism. Therefore, China does not seek an alliance with other countries, does not organize military blocs, does not pursue a strategic relationship with a foreign country against a third-party, and does not establish foreign military bases. Except in UN peacekeeping operations, China does not station any soldier abroad, which eliminates the fundamental obstacle to the development of China’s foreign relations and creates growing potential for Chinese diplomatic activities. China’s independent foreign policy of peace is an integral part of its road of peaceful development and a manifestation of its diplomacy. The Five Principles of Peaceful Coexistence is a fundamental principle guiding China’s foreign policy. As one of the countries to initiate the “Five Principles” and apply them with dedication, China has always respected other countries’ sovereignty and territorial integrity, has never violated the sovereignty of other countries, has never interfered in the internal affairs of other countries, and has vigorously conducted mutually beneficial cooperation with other countries, achieving peaceful coexistence. In 2012, in view of the evolving international and regional situations, China implemented the “Five Principles” with three salient features. First, China put greater emphasis on the principle of non-interference in internal affairs, and stressed respect for countries to choose a road to development suitable for their own national conditions. China strongly objected to the superpower’s attempts to interfere in China’s internal affairs, to criticize China’s social system, and to introduce the “Arab Spring” troubles to China. Meanwhile, China was critical of the Western powers for their attempts at the new interventionism in the Middle East and other places. When vetoing three times a Western-led resolution on Syria which aimed to implement a “regime change,” China argued that the Syria issue should be peacefully settled through political dialogue. China’s efforts prevented the U.S.-led Western powers from repeating the “Libyan model” in Syria. China safeguarded the principles of the Charter of the United Nations and international justice, prevented the West from instigating a “domino effect”-style “regime change” in Arab countries, and maintained peace and stability in the Middle East, playing a unique and universally acknowledged role. ¶ Secondly, China valued the principle of peacefully settling international disputes. As international and regional tensions grew, a number of international disputes intensified, and military confrontations developed. China urged the peaceful settlement of disputes through negotiations and dialogues, stressing that that was the only correct approach to safeguarding international and regional peace and development, and to protecting the fundamental interests of all parties. With this rationale, China in 2012 vigorously emphasized the role of the peaceful settlement in international disputes, and accordingly strengthened its efforts to promote talks and facilitate peace. For example, China insisted that the North Korea and Iran nuclear issues can be resolved only by political and peaceful means. It opposed vigorous sanctions against North Korea and Iran, strongly resisting attempts to resort to force or threats of force against the two countries. By its active participation in the six-party talks mechanism over the nuclear issue, and its vigorous mediation between North Korea and the parties concerned, China facilitated talks and negotiations, easing the strained relations between North Korea and other sides, and preventing a confrontation on the Korean Peninsula. With regard to its own island territorial disputes with the countries concerned, China firmly safeguarded its territorial integrity and sovereignty, while remaining calm, exercising restraint, and resorting to moderation instead of pre-emptive action. In addition, China held negotiations with Japan and the Philippines, and held a high-level dialogue with Vietnam, easing tensions and avoiding conflict and confrontation. In fact, China has maintained steady bilateral relations with most of the neighbors with which China has territorial disputes. Meanwhile, China was also actively involved in United Nations peacekeeping operations around the world. It made efforts to ease tensions in African countries (such as those between Sudan and South Sudan) and in the border areas between Lebanon and Israel, preventing the outbreak of conflict and war. These outstanding efforts have earned China praise from the United Nations and the relevant countries. ¶ Thirdly, China paid more attention to, and actively implemented, the principles of cooperation with other countries on the basis of equality and mutual benefit. Because of the recessions in the European Union and Japan, as well as the economic downturn in the U.S., in 2012 the world economic recovery was weak, undergoing a marked decline in growth. Therefore, there was an urgent need for countries to strengthen and expand their economic exchanges and cooperation in order to promote global economic recovery. Adhering to principles of equality, mutual benefit, and win-win cooperation, China made efforts to strengthen its economic cooperation with other countries, helping mitigate the global economic difficulties. For example, Chinese leaders actively participated in various multilateral summits and promoted global economic cooperation and regional integration. They also continued to vigorously urge countries to ride out the storm by helping each other to eliminate the aftermath of the financial crisis and to achieve a strong, sustainable, and balanced growth of the global economy. China helped the EU to ease its debt crisis by taking strong measures, including expanding the imports from the EU countries, purchasing EU bonds, and offering large-scale capital to the IMF to help enhance its ability to resolve the debt crisis. Moreover, China strengthened its mutually beneficial cooperation with the developing countries of Africa, Asia, and Latin America. In particular, it increased aid efforts to the least developed countries and China-Africa economic and trade relations made particularly significant progress. In 2011, the trade volume reached a record $166.3 billion. But in 2012 it was expected to undergo another round of rapid growth and exceed the mark of $200 billion. In July 2012, President Hu announced at the Fifth Ministerial Conference of the Forum on China-Africa Cooperation that China would adopt five measures to support Africa’s development, including expanding aid and offering $20 billion in loans to African countries.¶ Chinese sages have a saying: “If a small country has a big policy, it will be a big power; if a big country has a small policy, it will be a small power.” In other words, if the policy of a small country is “big” (in accordance with the times), it can act as a big power; if the policy of a big country is “small” (lacking perspective), it can only play a small role. This shows that a country’s foreign policy has profound implications for its international status and role. China’s foreign policy is in line with the trend of the times, reflects the common interests of China and the world, and is an important guarantee for China to achieve high prestige and diplomatic success.

#### Access environment best- structurally better than the US

**Naam ‘13** [Ramez, professional technologist, holds a seat on the advisory board of the Acceleration Studies Foundation, is a member of the World Future Society, a Senior Associate of the Foresight Institute, and a fellow of the Institute for Ethics and Emerging Technologies, former CEO of Apex Nanotechnologies, “Seven Reasons Why China May Be the World Leader in Fighting Climate Change,” <http://www.slate.com/articles/technology/future_tense/2013/05/china_cap_and_trade_carbon_tax_the_country_may_lead_the_global_climate_change.single.html>]

All of that makes what I’m about to say sound even crazier: China may one day be the world’s leader in combating climate change. In almost every way you cut it, China is already taking a much more aggressive approach toward climate change than the United States is.¶ This is important for two reasons. First, China is seeing the world’s fastest growth in energy consumption and in CO2 emissions. In the United States and Europe, by contrast, energy usage is nearly flat and CO2 emissions are down. So China’s policies exert a huge lever on future CO2 emissions. Second, one of the prime arguments against U.S. action on climate change has been that it doesn’t matter what the United States does if China isn’t on board.¶ Well, China already is on board in a number of ways that the United States isn’t. Consider the following:¶ 1. China is launching a cap-and-trade plan.¶ In the United States, the Waxman-Markey cap-and-trade plan fizzled in the Senate in 2009. In China, meanwhile, authorities have moved forward with pilot cap-and-trade systems covering seven regions, including the manufacturing hub provinces of Guangdong and Hubei, as well as the cities of Beijing, Shanghai, Tianjin, Chongqing, and Shenzhen. The first of those cap-and-trade systems, in Shenzhen, will start operation June 17. By 2020, the Chinese government plans to link those regional systems into a national carbon market. Just last month, the governments of China and Australia announced their intent to link the two countries’ carbon markets into a regional one.¶ 2. China is also launching a carbon tax.¶ In March, the U.S. Senate unceremoniously voted down an amendment that would have opened the way to a carbon tax. Not so, China. Officials there have announced their intent to institute a tax on CO2 emissions, likely starting in 2015 or 2016.¶ 3. China is investing more in renewable energy.¶ Not satisfied with those future plans? Consider the here-and-now. In 2012, the United States spent $35 billion on renewable energy—actually down 37 percent from $56 billion in 2011. China, meanwhile, spent a whopping $65 billion on renewable energy in 2012, or 85 percent more than the United States did in the same year.¶ Yes, China’s population is more than four times the United States’. But China’s economy is only half the size. As a fraction of its overall economy, China invested almost four times as much as the United States in renewable energy in 2012.¶ 4. China dominates in solar production …¶ China has taken a huge lead in the production of solar panels in particular. In 1995, the United States produced nearly 40 percent of the solar panels produced around the world, while China made less than 1 percent. Now Chinese companies produce more than half the solar panels manufactured worldwide, while the United States produces less than 10 percent.¶ Critics have decried this as a case of China’s government using cheap loans and investments to bootstrap an industry. And that’s exactly what it is. Whatever the short-term fluctuations in the solar market may be, whether China is guilty or not of intentionally flooding the market, in the long run the demand for solar power is going to grow by orders of magnitude. Solar power is going to be absolutely essential to meeting growing energy demands while staving off climate change. Chinese banks and Chinese leaders know this, and they plan to be the world leader in that industry.¶ 5. … and is second only to Germany in solar deployment.¶ China doesn’t just manufacture a lot of solar power equipment. In 2012, the only country in the world that installed more solar power for its own needs was Germany. The United States was No. 4, after Italy.¶ 6. China loves wind more than coal, and more than we do.¶ For all this investment in solar power, the energy source most commonly associated with China is coal—dirty, dirty coal, the most CO2-intensive of all the fossil fuels. And yes, China does burn almost as much coal as the rest of the world combined. But in 2012, China actually increased wind power generation more than coal power generation.\* In fact, wind power growth was more than double that of coal power growth in China—26 terawatt-hours of new wind generation in 2012 versus only 12 terawatt-hours of added coal generation in the same year.¶ And when ranked against other countries, China comes in at—you guessed it—No. 1 in terms of the total amount of wind generating capacity installed, about 76 gigawatts compared with the United States’ 60 gigawatts. And that’s after the best-ever year the United States had in deploying new wind power, spurred on by uncertainty as to whether the wind power production tax credit would be extended.¶ 7. China’s leaders are not like America’s. There’s a preponderance of scientists and engineers among China’s rulers. New President Xi Jinping was trained as a chemical engineer. His predecessor, Hu Jintao, earned a degree in hydraulic engineering. His predecessor, Jiang Zemin, held a degree in electrical engineering.¶ You can see this in their public statements. Last year, Xi Jinping said that “global climate change is deeply affecting human beings’ lives and development,” and called for China to develop a “national strategy for [dealing with] climate change.” Among China’s leadership, there simply is no debate about whether climate change is real. The Politburo, too, is stuffed with engineers and scientists. These are men (all men, sadly) who recognize that the world is facing a significant challenge. The conversation in China is not about whether to act against climate change. Rather, it’s about how to tackle climate change, while making room for more than 1 billion Chinese men and women to continue to enjoy the fruits of rapid economic growth.¶ Turning the Ship¶ All that said, what China’s doing still isn’t nearly enough to stop climate change. CO2 emissions in 2012 jumped by record amounts both worldwide and in China. China now has a staggering 363 new coal plants on the drawing boards. And behind China comes rising India, with 455 new coal plants on the drawing boards.¶ But in the end, only one thing matters when it comes to determining what energy technology will be deployed: price. Governments, industry, and consumers choose whatever source of energy comes with the lowest price tag. China, by moving toward cap-and-trade and a carbon tax, is seeking to affect that price tag. And by driving both the manufacturing and deployment of renewable energy, China’s green technology investment is also fueling a tremendous amount of research and development, driving down the intrinsic price of solar panels and wind turbines.¶ When that price gets low enough—through whatever combination of innovation and market-correcting policies get us there—the whole world will shift its behavior.

### Impact

#### Finishing

example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • The U.S. pivot to the region could be further complemented with an increase in soft-power promotion, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific. Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

### Link wall – 2nc

#### Their jodoin card is a link

Jodoin 10

Sébastien Jodoin, Lead Counsel with the Centre for International Sustainable Development Law, “Crimes against Future Generations: Ending Corporate Impunity for Serious Violations of International Law,” September 2010, <http://www.lawofthefuture.org/ul/cms/odoc/0/8/4/84/84.pdf>

The expansion in the power, activities and scope of transnational corporations has significantly ¶ influenced law in the second half of the twentieth century, especially with respect to trade, ¶ investment, and cross-border business activities. These changes in corporate regulation have done ¶ much to facilitate globalisation and have resulted in some positive benefits in terms of global and ¶ transnational economic growth. On the other hand, law has done little to address some of the ¶ challenges arising from transnational corporate activities, most notably in the areas of human rights,¶ human health and the environment. ¶ At the level of international law, transnational corporations benefit from their lack of legal status and ¶ ambiguities in the scope of application of international legal norms to their conduct and activities.1¶ While a number of voluntary codes of conduct or sets of norms applicable to corporations have been ¶ developed to fill this gap, such voluntary initiatives, lacking effective measures to monitor and ¶ sanction non-compliance, have proved to be ineffective and insufficient.2¶ At the level of national law, ¶ transnational corporations take advantage of the unwillingness or inability of developed and ¶ developing states to effectively regulate their activities. Developed states, where many transnational¶ corporations are headquartered, are often reluctant to hold corporations accountable for their ¶ conduct abroad due to concerns that they may relocate elsewhere.3¶ Developing states are equally ¶ disinclined to sanction abuses committed by corporations on their territories. Their governments ¶ benefit from the economic growth and resources (as well as from bribes and patronage) that come ¶ with transnational corporate activities or may be directly implicated in abuses committed by or on ¶ behalf of corporations.4¶ This patchwork of weak, non-existent, or inadequately enforced laws in both developed and ¶ developing states has resulted in gaps in the governance of transnational corporations operating in ¶ developing countries. These governance gaps “provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation.”5Addressing these governance ¶ gaps in both national and international law is likely to be one of the most important challenges of the ¶ law of the future. In meeting this challenge, law will need to not only develop standards capable of ¶ addressing the most significant harms suffered by vulnerable populations and environments, but also ¶ mechanisms for effectively enforcing these standards. ¶ In this paper, I argue that the emerging system of international criminal justice has the potential to¶ deliver both the standards and mechanisms of accountability that are required to correct the most ¶ harmful excesses of transnational corporate activity. I also argue that before international criminal law ¶ can fill all of the gaps in the governance of corporate activities in developing countries, it will be¶ necessary to expand its scope of application to economic, social, and cultural rights and international ¶ environmental law. This will require the creation of a new category of international crime that would ¶ prohibit acts and conduct that have severe impacts on the long-term health, safety and means of ¶ survival of human groups and collectivities – crimes against future generations.

#### Finishing 1nc

Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that U.S. soft power is driven by the imperative of “maintaining US hegemony in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as the “China threat theory,” which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken myriad internal measures to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### Influence is zero-sum

**Shengjun 12-1**-13 [Zhang, professor at the School of Government, Beijing Normal University, “Zero-sum thinking an inevitable aspect of modern diplomacy,” <http://www.globaltimes.cn/content/828984.shtml#.UrUAqtJDuMU>]

China has been reiterating its resolution to adhere to the path of peaceful development and win-win, open diplomacy in recent years, pushing back against groundless claims of a "China threat." However, the framework of peaceful development is not omnipotent and win-win strategies cannot solve all international issues. Refusing to consider zero-sum issues, or dealing with international affairs by using one fixed mindset, cannot lead to balanced diplomacy.¶ In fact, zero-sum thinking is closer to the true nature of modern diplomacy. Modern diplomacy is derived from the political strife between the secular power and the Pope's theocracy in medieval Europe. Without zero-sum conflicts, there wouldn't be progress. ¶ In other words, it is hard to understand the birth and evolution of modern diplomacy without thinking in zero-sum terms, and it is also impossible to grasp the essence of modern diplomacy, such as the policy of "an eye for an eye."¶ Although globalization is a reality of the modern world, **zero-sum games** are not declining; on the contrary, they **are gaining momentum** along with more international exchanges taking place. Zero-sum thinking is becoming even more applicable than before. **China is no exception** from this tendency. Thus, even if a nation is carrying forward a peaceful development philosophy, this does not mean it can ignore or even abandon zero-sum thinking.¶ However, it should be noted that zero-sum thinking is different from the Cold War mentality. That outdated philosophy, bred by the tit-for-tat ideological confrontation between the US and former Soviet Union, goes against the trend of the times and needs to be abandoned. ¶ The Cold War mentality, the "flower of evil," is the extreme result of zero-sum thinking, but rejecting the Cold War mentality does not mean abandoning zero-sum thinking.¶ Putting an emphasis on zero-sum thinking actually complies with the objective law of international affairs, which can be categorized into three aspects. First, there are non-zero-sum games, such as international trade and economic cooperation, on the basis of economic structural complementarities. Second, there are zero-sum games, such as those involving resources and territorial disputes. Third is the combination of non-zero-sum games and zero-sum games, such as international negotiations over climate change. Thus, zero-sum games are showing their regular presence in international affairs. Competition and confrontation are basic forms of international relations, so adopting zero-sum thinking to deal with these issues is a logical step.¶ Zero-sum thinking will be conducive to China projecting a distinctive image on the international community and enhancing its influence and leadership in regional and global affairs. ¶ This philosophy can enable a nation to keep pace as a proactive stakeholder in international issues, and also maintain its decisiveness in making important strategic choices. ¶ If China wants to take more international responsibilities and play a role of leadership, zero-sum thinking will surely make a difference. Although not as typical, going for more soft power and a bigger say is also a kind of zero-sum game.¶ Zero-sum thinking is not an outdated philosophy, but a normal way of thinking which has taken root in international relations. ¶ Chinese diplomacy should be fully aware that only by integrating win-win strategies with zero-sum thinking, can China meet the challenges imposed by the complicated international environment in a calm manner, especially when the relationship between China and the US is inclining toward being more competitive than cooperative. The world cannot be thought of as a utopia, and ignorance of zero-sum games will cost China significantly. Using necessary zero-sum thinking will give China more confidence in dealing with international issues.

# K

**First, structural violence – the aff sanitizes imperial violence and legitimizes weapons the sovereign decides are sufficiently discriminatory – that’s Cooper. The aff’s logic creates the conditions for endless warfare and 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).

**First, masking – the plan legitimizes other forms of imperial violence, de-legitimatizing alternatives to permanent war**

Tran-Creque, 13 -- Center for the Study of the Drone [Steven, "The Forever War is Always Hungry," Center for the Study of the Drone (at Bard College), 6-5-13, dronecenter.bard.edu/the-forever-war-is-always-hungry/, accessed 9-1-13, mss]

And so on. In both popular discourse and the policy press, pundits and commentators have overwhelmingly adopted the same familiar blueprint: a legalistic invocation of sovereignty that emphasizes borders and governmental authority to the exclusion much else. There is a dangerous intellectual poverty in this. We are not, as Trevor Paglen recently observed, “moving toward a surveillance state: we live in the heart of one.” This is the era of total surveillance and extrajudicial killing, of public austerity and mass incarceration, of permanent unemployment and global warming: what Jakob Augstein recognized last week in Der Spiegel as nothing short of totalitarianism. The extraordinary measures of rendition, black sites, secret laws, black budgets and retroactive legalizations that have accompanied the vicious internal targeting of Muslims, protesters and whistleblowers—all of this has become the new normal, and coming decades will reap the whirlwind. This is what Paglen has dubbed the “terror state”: not merely the possibility of “turnkey tyranny” one step away, but its virtual inevitability. As the War on Terror now transforms into the forever war, I think we must begin by asking how exactly we ever got here. Of course, at first glance, the connection between all of this and the question of whose legal jurisdiction prevails in Waziristan seems faint at best. Certainly, no matter how broadly one reads the term “war,” one struggles to find in this anything like the strangely resilient imagery of nation states battling each other with state of the art weaponry, no matter how much this continues to dominate the way we think of war. In none of the usual accounts can one find something like Jean Bodin’s definition of sovereignty as “the absolute and perpetual power of the republic,” one of the principal influences from which Carl Schmitt famously drew his definition of the sovereign as “he who decides on the exception” to the law. But I would insist: these are not esoteric historical or theoretical concerns. I want to offer a very different approach here to the question of what sovereignty means. Sovereignty has never been an anodyne policy question of whose jurisdiction applies, of who controls drones, or of how visible such clandestine military programs will be. Rather, following Eyal Weizman, one should begin by asking how sovereignty came to be exercised as the economistic management of death. In the strangest of places, David Graeber’s historical critique of an old anthropological debate over the divine kingship of the Shilluk of Southern Sudan offers what I find to be the most compelling explanation for the forever war. That is, that the War on Terror is better understood as an unusually visible example of the constitutive principle of sovereignty: a permanent war between the sovereign and everyone else—the only kind of war there is. This is why, as Teju Cole once remarked, the forever war is always hungry. The Raw Material of Sovereignty Weizman’s question is simple. “How, after the evacuation of the ground surface of Gaza, did bodies, rather than territories, or death, rather than space, turn into the raw material of Israeli sovereignty?” In Weizman’s Thanato-tactics, sovereignty is simply the management of death. The Israeli General Security Service’s assassination program, which began in 2000—before 9/11—produced the sprawling surveillance and counterinsurgency apparatus of the occupation. But it also provided the template and testing grounds for the United States’ own assassination program. What Weizman is really interested in is the logic of the lesser evil, by which economizing language produces this environment of managed death. From this perspective, collateral damage calculations are not a humanitarian triumph limiting the scope of violence**.** Rather, they are a crucial part of the ideological apparatus by which acts of state violence are renderedlegal andlegitimate**,** encompassed within the permissible logic of forestalling greater violence**.** Weizman quotes Israeli Air Force commander Eliezer Shkedi saying, before the 2006 invasion of Gaza, that “the only alternative to aerial attacks is a ground operation and the reoccupation.” Assassination, he added, “is the most precise tool we have.” So too with proportionality, balancing, efficiency, pragmatism, the injunction to “be realistic,” and the entire pantheon of reasonable constraints. All of the oppositional forces of military interests and intelligence agencies, human rights groups and journalists, can be incorporated within the same project: the maintenance of humanitarian violence, albeit one that bills itself as a lesser form of violence compared to the alternatives. As Will Saletan put it in Slate earlier this year with memorable enthusiasm: Drones kill fewer civilians, as a percentage of total fatalities, than any other military weapon. They’re the worst form of warfare in the history of the world, except for all the others. … civilian casualties? That’s not an argument against drones. It’s the best thing about them. The choice presented is always between assassination and invasion, between Hellfire missiles and imprecise bombs—between fewer dead and more dead. It is not a choice between war and peace. Well-trained commentators cannot even imagine a world in which such things simply do not happen. And **one never questions the legitimacy of the system in which**, as Hannah Arendt emphasized, **one must choose evil**. Periodic eruptions of unchecked violence—as in the Israeli invasion of Gaza in 2008 and the bombardment in 2012—are neither accidents nor failures. The **normal practice of violence** through checkpoints, annexation, resource extraction, and assassination is maintained against the the ever present threat of greater violence, regularly demonstrated. **The greater evil kept at bay by the lesser evil, in an endless state of war.** This permanent threat of arbitrary violence is precisely what we call sovereignty. The Only War there Is Beginning with his observation that states are “at the same time forms of institutionalized raiding or extortion, and utopian projects,” David Graeber’s definition of sovereignty is simple enough: “the right to exercise violence with impunity.” Graeber offers the example of the Ganda kingship to the south of the Shilluk. In the late 19th century, European visitors to the court of King Mutesa offered a gift of firearms. Mutesa responded by firing the rifle in the street and killing his subjects at random. When David Livingstone asked why the Ganda king killed so many people, he was told that “if [the king] didn’t, everyone would assume that he was dead.” However, the notoriety of the Ganda kings for arbitrary, random violence towards their own people did not prevent Mutesa from also being accepted as supreme judge and guardian of the state’s system of justice. Indeed, it was the very foundation for it. Specifically, Graeber is interested in the transcendent quality of violence: the violence and transgression of the king makes him “a creature beyond morality.” Paradoxically, the sovereign may be arbitrarily violent—the etymology here is telling—and nevertheless seen as the supreme source of justice and law. Graeber calls this transcendent aspect of violence “divine.” It isn’t just that kings act like gods; it’s that they do so and get away with it. This remains the case in the modern state. Walter Benjamin’s famous distinction between “law-making” and “law-maintaining” violence refers to the same phenomenon. We often say that no one is above the law, but if this were true, there would be no one to bring the legal order into being in the first place: the signers of the Declaration of Independence or the American Constitution were all traitors by the legal order under which they were born. There really is no resolution to this paradox. The solution of the left is that the people may rise up periodically and overthrow the existing legal regime in a revolution. The solution of the right is Carl Schmitt’s exception: that sovereignty is exercised by the head of state in putting aside the legal order. But whichever solution one prefers, this really just defers the dilemma: all sovereignty is built on a foundation of illegal acts of violence, and it always carries the immanent potential for arbitrary violence. In 19th-century accounts of rainmakers in Southern Sudan, the function of violence is even clearer. With rainmakers, as with Shilluk kings, the health of the land is tied to the health of the king. If the rains fail to fall, first people will bring petitions, then gifts. But after a certain point, if the rains still don’t come, the rainmaker must either flee or face a community united to kill him. It isn’t hard to see why rainmakers would want something like the state’s monopoly on violence or a retinue of loyal, armed followers. But the crucial point is that insofar as “the people” could be said to exist, they were essentially seen as the collective enemy of the king. European explorers in the region often found kings raiding enemy villages only to find that the villages contained the king’s own subjects. They were delivering arbitrary violence to the people they were supposed to protect. So Graeber reminds us, “predatory violence was and would always remain the essence of sovereignty.” Such is the hidden logic of sovereignty. Above all, it depends on the transcendent quality of violence that allows the sovereign to become, as Hobbes put it, a “mortal god.” But this is also means that arbitrary violence is the constitutive principle of sovereignty, defining the relationship between the sovereign and everything else: What we call ‘the social peace’ is really just a truce in a constitutive war between sovereign power and ‘the people,’ or ‘nation’—both of whom come into existence, as political entities, in their struggle against each other. There is no inside or outside here. Contra Schmitt and his friend-enemy distinction, this constitutive war precedes wars between nations and peoples. From the perspective of sovereign power, “there is no fundamental difference in the relation between a sovereign and his people, and a sovereign and his enemies,” explains Graeber. This constitutive war is a war the sovereign can never win—a forever war that can never end. No War but the Forever War What exactly is one supposed to make of John Brennan’s admission that the war against Al Qaeda will continue for another decade? How did the AUMF and the Patriot Act together come to constitute something like America’s Article 48, creating a permanent state of exception in which something like the NSA’s “giant automated Stasi” is simply accepted as the new normal? How did drones become an inevitable part of the near future in New York City? After all, the War on Terror really isn’t anything like a war at all— at least, not in the conventional imaginary of nation states commanding disciplined military forces on established fields of battle. The United States commands a degree of military power and comparative dominance simply unprecedented in human history—what is elegantly referred to, in the anodyne language of military planners, as “asymmetry.” There are no strictly defined battlefields, and the formal enemies in the War on Terror have rarely amounted to more than the insurgent army of a deposed dictator (funded and armed by the U.S., albeit long ago) and a few hundred religious students in the mountains of Central Asia. It is in fact genuinely strange how resiliently this conventional image seems to persist in both popular and intellectual imagination. Even scholarly responses to the War on Terror begin from the assumption that something new and strange is happening when battlefields and opponents alike are no longer delimited but rather always and everywhere. If one limits oneself to legal documents, this is pretty much the only possible conclusion. The conventional imagery really seems to be most useful in obscuring the more fundamental realities of what war really is. In part, war consists of the far more common practice of civil wars, guerrilla wars, genocide and internal repression—but also, in a larger sense, the fundamental state of war between the sovereign and his people that is the originary, constitutive state for sovereign power itself. The forever war, then, has effectively allowed the United States to claim sovereignty to farthest reaches of the earth. Certainly, this is not a question purely of drones: the apparatus also consists of a deep surveillance state, total international digital surveillance, a military larger than the combined militaries of the rest of the world, and extralegal rendition and detention programs. But at the edges of this arrangement, one finds Agamben’s homo sacer, Fiskesjö’s barbarians: those excluded from the legal order, stripped of rights, subject to death at any time—the point at which an empire converts those beyond its reach into obedient subjects or corpses. This is the logic of sovereign violence taken to its most extreme—and not insignificantly, this has been accomplished in part by euphemizing that violence, whether in the sanitized parlance of the military—“focused obstruction,” “targeted killing,” “kinetic action”—or the more artful, ideological euphemization by which assassination programs become complex and debatable moral issues in the liberal press. It should come as no surprise that this has been accompanied by the infinite expansion of an apparatus of domestic surveillance and control unprecedented in human history. One should never forget that the instruments of sovereignty—drones, militarized police, mass surveillance apparatus—were always directed inwards as much as outwards, because the security state secures one thing: the safety of the sovereign above all. From the perspective of sovereign power, there is no inside and there is no outside. There is only the violence to which we are all subject. “One simple imperative: Know your enemy” The legalistic definition of sovereignty, the preoccupation with policy making, even the basic assumption that the debates we have really matter—all of this starts to look ideological in the worst sense. Following the Prism revelations last week, Christian Caryl wrote a retrospective in Foreign Policy comparing the NSA and the East German Stasi: So which is worse, the Stasi or the NSA? Definitely the Stasi. East German citizens had no defense whatsoever against its intrusions. American citizens can still exercise control over our own intelligence organizations, which are still bound (or so we are told) by the rule of law. But do we really have the will to restrain them? There is admittedly some faint courage in being willing to even make the comparison, but there is something utterly more remarkable in the ideological refrain of asking if “American citizens can still exercise control over our own intelligence organization”—as if the state’s intelligence apparatus had ever been democratic—“or so we are told.” But this is hardly uncommon. Dan Gettinger’s recent piece for the Center here frames the question in terms of legislative oversight in the application of the AUMF: Understanding this legal debate and the evolving strategic situation determines how this country deploys it’s forces abroad, the kinds of military technologies that we invest in, and the degree of oversight that Congress has over the use of force by the Executive Branch. While the outcome of this debate will likely result in some form forever war against terrorism, the question remains as to whether it will be conducted in the shadows of ambiguity or limited by some degree of Congressional observation. And here we are back at the lesser evil. It is significant, I think, that it is fundamentally impossible it is to reconcile any of this with anything like actual democracy. These are questions for policy elites—and perhaps for those who imagine themselves among their ranks. But the question is always between more killing and less killing, between more secrecy and less secrecy, more oversight and less oversight—**always witheringly loyal to the same order of violence that produced these choices in the first place**—and which never bore any of us any loyalty.

#### The plan leaves the engine of US militarism intact- causes endless war and turns blowback arguments

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 Wa*r, 2005 accessed 9-4-13, mss]

Today as never before in their history Americans are enthralled with military power. The global military supremacy that the United States presently enjoys--and is bent on perpetuating-has become central to our national identity. More than America's matchless material abundance or even the effusions of its pop culture, the nation's arsenal of high-tech weaponry and the soldiers who employ that arsenal have come to signify who we are and what we stand for. When it comes to war, Americans have persuaded themselves that the United States possesses a peculiar genius. Writing in the spring of 2003, the journalist Gregg Easterbrook observed that "the extent of American military superiority has become almost impossible to overstate." During Operation Iraqi Freedom, U.S. forces had shown beyond the shadow of a doubt that they were "the strongest the world has ever known, . . . stronger than the Wehrmacht in r94o, stronger than the legions at the height of Roman power." Other nations trailed "so far behind they have no chance of catching up. ""˜ The commentator Max Boot scoffed at comparisons with the German army of World War II, hitherto "the gold standard of operational excellence." In Iraq, American military performance had been such as to make "fabled generals such as Erwin Rommel and Heinz Guderian seem positively incompetent by comparison." Easterbrook and Booz concurred on the central point: on the modern battlefield Americans had located an arena of human endeavor in which their flair for organizing and deploying technology offered an apparently decisive edge. As a consequence, the United States had (as many Americans have come to believe) become masters of all things military. Further, American political leaders have demonstrated their intention of tapping that mastery to reshape the world in accordance with American interests and American values. That the two are so closely intertwined as to be indistinguishable is, of course, a proposition to which the vast majority of Americans subscribe. Uniquely among the great powers in all of world history, ours (we insist) is an inherently values-based approach to policy. Furthermore, we have it on good authority that the ideals we espouse represent universal truths, valid for all times. American statesmen past and present have regularly affirmed that judgment. In doing so, they validate it and render it all but impervious to doubt. Whatever momentary setbacks the United States might encounter, whether a generation ago in Vietnam or more recently in Iraq, this certainty that American values are destined to prevail imbues U.S. policy with a distinctive grandeur. The preferred language of American statecraft is bold, ambitious, and confident. Reflecting such convictions, policymakers in Washington nurse (and the majority of citizens tacitly endorse) ever more grandiose expectations for how armed might can facilitate the inevitable triumph of those values. In that regard, George W. Bush's vow that the United States will "rid the world of evil" both echoes and amplifies the large claims of his predecessors going at least as far back as Woodrow Wilson. Coming from Bush the war- rior-president, the promise to make an end to evil is a promise to destroy, to demolish, and to obliterate it. One result of this belief that the fulfillment of America's historic mission begins with America's destruction of the old order has been to revive a phenomenon that C. Wright Mills in the early days of the Cold War described as a "**military metaphysics"-a tendency to see international problems as military problems and to discount** the likelihood of findinga **solution except through military means.** To state the matter bluntly, Americans in our own time have fallen prey to militarism, manifesting itself in a romanticized view of soldiers, a tendency to see military power as the truest measure of national greatness, and outsized expectations regarding the efficacy of force. To a degree without precedent in U.S. history, Americans have come to define the nation's strength and well-being in terms of military preparedness, military action, and the fostering of (or nostalgia for) military ideals? Already in the 19905 America's marriage of a militaristic cast of mind with utopian ends had established itself as the distinguishing element of contemporary U.S. policy. The Bush administrations response to the hor- rors of 9/11 served to reaffirm that marriage, as it committed the United States to waging an open-ended war on a global scale. Events since, notably the alarms, excursions, and full-fledged campaigns comprising the Global War on Terror, have fortified and perhaps even sanctified this marriage. Regrettably, those events, in particular the successive invasions of Afghanistan and Iraq, advertised as important milestones along the road to ultimate victory have further dulled the average Americans ability to grasp the significance of this union, which does not serve our interests and may yet prove our undoing. The New American Militarism examines the origins and implications of this union and proposes its annulment. Although by no means the first book to undertake such an examination, The New American Militarism does so from a distinctive perspective. The bellicose character of U.S. policy after 9/11, culminating with the American-led invasion of Iraq in March 2003, has, in fact, evoked charges of militarism from across the political spectrum. Prominent among the accounts advancing that charge are books such as The Sorrows of Empire: Militarism, Secrecy, and the End of the Republic, by Chalmers Johnson; Hegemony or Survival: Americas Quest for Global Dominance, by Noam Chomsky; Masters of War; Militarism and Blowback in the Era of American Empire, edited by Carl Boggs; Rogue Nation: American Unilateralism and the Failure of Good Intentions, by Clyde Prestowitz; and Incoherent Empire, by Michael Mann, with its concluding chapter called "The New Militarism." Each of these books appeared in 2003 or 2004. Each was not only writ- ten in the aftermath of 9/11 but responded specifically to the policies of the Bush administration, above all to its determined efforts to promote and justify a war to overthrow Saddam Hussein. As the titles alone suggest and the contents amply demonstrate, they are for the most part angry books. They indict more than explain, and what- ever explanations they offer tend to be ad hominem. The authors of these books unite in heaping abuse on the head of George W Bush, said to combine in a single individual intractable provincialism, religious zealotry, and the reckless temperament of a gunslinger. Or if not Bush himself, they fin- ger his lieutenants, the cabal of warmongers, led by Vice President Dick Cheney and senior Defense Department officials, who whispered persua- sively in the president's ear and used him to do their bidding. Thus, accord- ing to Chalmers Johnson, ever since the Persian Gulf War of 1990-1991, Cheney and other key figures from that war had "Wanted to go back and finish what they started." Having lobbied unsuccessfully throughout the Clinton era "for aggression against Iraq and the remaking of the Middle East," they had returned to power on Bush's coattails. After they had "bided their time for nine months," they had seized upon the crisis of 9/1 1 "to put their theories and plans into action," pressing Bush to make Saddam Hussein number one on his hit list." By implication, militarism becomes something of a conspiracy foisted on a malleable president and an unsuspecting people by a handful of wild-eyed ideologues. By further implication, the remedy for American militarism is self-evi- dent: "Throw the new militarists out of office," as Michael Mann urges, and a more balanced attitude toward military power will presumably reassert itself? As a contribution to the ongoing debate about U.S. policy, The New American Militarism rejects such notions as simplistic. It refuses to lay the responsibility for American militarism at the feet of a particular president or a particular set of advisers and argues that no particular presidential election holds the promise of radically changing it. Charging George W. Bush with responsibility for the militaristic tendencies of present-day U.S. for- eign policy makes as much sense as holding Herbert Hoover culpable for the Great Depression: Whatever its psychic satisfactions, it is an exercise in scapegoating that lets too many others off the hook and allows society at large to abdicate responsibility for what has come to pass. The point is not to deprive George W. Bush or his advisers of whatever credit or blame they may deserve for conjuring up the several large-scale campaigns and myriad lesser military actions comprising their war on ter- ror. They have certainly taken up the mantle of this militarism with a verve not seen in years. Rather it is to suggest that well before September 11, 2001 , and before the younger Bush's ascent to the presidency a militaristic predisposition was already in place both in official circles and among Americans more generally. In this regard, 9/11 deserves to be seen as an event that gave added impetus to already existing tendencies rather than as a turning point. For his part, President Bush himself ought to be seen as a player reciting his lines rather than as a playwright drafting an entirely new script. In short, the argument offered here asserts that present-day American militarism has deep roots in the American past. It represents a bipartisan project. As a result, it is unlikely to disappear anytime soon, a point obscured by the myopia and personal animus tainting most accounts of how we have arrived at this point. The New American Militarism was conceived not only as a corrective to what has become the conventional critique of U.S. policies since 9/11 but as a challenge to the orthodox historical context employed to justify those policies. In this regard, although by no means comparable in scope and in richness of detail, it continues the story begun in Michael Sherry's masterful 1995 hook, In the Shadow of War an interpretive history of the United States in our times. In a narrative that begins with the Great Depression and spans six decades, Sherry reveals a pervasive American sense of anxiety and vulnerability. In an age during which War, actual as well as metaphorical, was a constant, either as ongoing reality or frightening prospect, national security became the axis around which the American enterprise turned. As a consequence, a relentless process of militarization "reshaped every realm of American life-politics and foreign policy, economics and technology, culture and social relations-making America a profoundly different nation." Yet Sherry concludes his account on a hopeful note. Surveying conditions midway through the post-Cold War era's first decade, he suggests in a chapter entitled "A Farewell to Militarization?" that America's preoccupation with War and military matters might at long last be waning. In the mid- 1995, a return to something resembling pre-1930s military normalcy, involving at least a partial liquidation of the national security state, appeared to be at hand. Events since In the Shadow of War appear to have swept away these expectations. The New American Militarism tries to explain why and by extension offers a different interpretation of America's immediate past. The upshot of that interpretation is that far from bidding farewell to militariza- tion, the United States has nestled more deeply into its embrace. f ~ Briefly told, the story that follows goes like this. The new American militarism made its appearance in reaction to the I96os and especially to Vietnam. It evolved over a period of decades, rather than being sponta- neously induced by a particular event such as the terrorist attack of Septem- ber 11, 2001. Nor, as mentioned above, is present-day American militarism the product of a conspiracy hatched by a small group of fanatics when the American people were distracted or otherwise engaged. Rather, it devel- oped in full view and with considerable popular approval. The new American militarism is the handiwork of several disparate groups that shared little in common apart from being intent on undoing the purportedly nefarious effects of the I96OS. Military officers intent on reha- bilitating their profession; intellectuals fearing that the loss of confidence at home was paving the way for the triumph of totalitarianism abroad; reli- gious leaders dismayed by the collapse of traditional moral standards; strategists wrestling with the implications of a humiliating defeat that had undermined their credibility; politicians on the make; purveyors of pop cul- turc looking to make a buck: as early as 1980, each saw military power as the apparent answer to any number of problems. The process giving rise to the new American militarism was not a neat one. Where collaboration made sense, the forces of reaction found the means to cooperate. But on many occasions-for example, on questions relating to women or to grand strategy-nominally "pro-military" groups worked at cross purposes. Confronting the thicket of unexpected developments that marked the decades after Vietnam, each tended to chart its own course. In many respects, the forces of reaction failed to achieve the specific objectives that first roused them to act. To the extent that the 19603 upended long-standing conventions relating to race, gender, and sexuality, efforts to mount a cultural counterrevolution failed miserably. Where the forces of reaction did achieve a modicum of success, moreover, their achievements often proved empty or gave rise to unintended and unwelcome conse- quences. Thus, as we shall see, military professionals did regain something approximating the standing that they had enjoyed in American society prior to Vietnam. But their efforts to reassert the autonomy of that profession backfired and left the military in the present century bereft of meaningful influence on basic questions relating to the uses of U.S. military power. Yet the reaction against the 1960s did give rise to one important by-prod: uct, namely, the militaristic tendencies that have of late come into full flower. In short, the story that follows consists of several narrative threads. No single thread can account for our current outsized ambitions and infatua- tion with military power. Together, however, they created conditions per- mitting a peculiarly American variant of militarism to emerge. As an antidote, the story concludes by offering specific remedies aimed at restor- ing a sense of realism and a sense of proportion to U.S. policy. It proposes thereby to bring American purposes and American methods-especially with regard to the role of military power-into closer harmony with the nation's founding ideals. The marriage of military metaphysics with eschatological ambition is a misbegotten one, contrary to the long-term interests of either the American people or the world beyond our borders. It invites endless war and the ever-deepening militarization of U.S. policy. As it subordinates concern for the common good to the paramount value of military effectiveness, it promises not to perfect but to distort American ideals. As it concentrates ever more authority in the hands of a few more concerned with order abroad rather than with justice at home, it will accelerate the hollowing out of American democracy. As it alienates peoples and nations around the world, it will leave the United States increasingly isolated. If history is any guide, it will end in bankruptcy, moral as well as economic, and in abject failure. "Of all the enemies of public liberty," wrote James Madison in 1795, "war is perhaps the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies. From these proceed debts and taxes. And armies, debts and taxes are the known instruments for bringing the many under the domination of the few .... No nation could preserve its freedom in the midst of continual Warfare." The purpose of this book is to invite Americans to consider the continued relevance of Madison's warning to our own time and circumstances.

# Case

## War yes/no

#### Finishing

, which many of our military leaders fail to understand. Like the world of 1914, we are living through changes in the nature of war whose significance we are only starting to grasp. A hundred years ago, most military planners and the civilian governments who watched from the sidelines got the nature of the coming war catastrophically wrong. The great advances of Europe’s science and technology and the increasing output of its factories during its long period of peace had made going on the attack much more costly to human life. The killing zone—the area that attacking soldiers had to cross in the face of deadly enemy fire—had expanded hugely from 100 yards in the Napoleonic wars to over 1,000 yards by 1914. And the rifles, machine guns, and artillery they faced were firing faster, more accurately, and with more deadly explosives. There was plenty of evidence from the smaller wars fought before 1914—the American Civil War, the Franco-Prussian War of 1870-71, and the Russo-Japanese War of 1904-5—about what this would mean on the battlefield. Soldiers attacking, no matter how brave, would suffer horrific losses, while defenders sat in the relative security of their trenches, behind sandbags and barbed wire. Yet the best brains in Europe’s general staffs refused to face the new reality, explaining away or ignoring the uncomfortable facts, just as today many choose to ignore the overwhelming scientific evidence of global warming. The European powers went into war in 1914 with plans that, without exception, were predicated on an offensive strategy. As a British major general said in 1914, “The defensive is never an acceptable role to the Briton, and he makes little or no study of it.” The British—and the soldiers of many other nations—paid a high price for that willful blindness. A comparable fallacy in our own time is that because of our advanced technology, we can deliver quick, focused, and overpowering military actions—“surgical strikes,” “shock and awe”—resulting in conflicts that will be short and limited in their impact, and victories that will be decisive. Challenging the faith that such low-cost victories are possible, Major General H.R. McMaster, the commanding officer at Fort Benning, Georgia, and something of an iconoclast, recently wrote in the New York Times that many of the assumptions that had guided the American military before 9/11 and up to and through the early years of the wars in Iraq and Afghanistan were wishful thinking. To view “successful military operations as ends in themselves, rather than just one instrument of power that must be coordinated with others to achieve, and sustain, political goals” is, he believes, a mistake. The wars in Iraq and Afghanistan, he said, were not just matters of military strength but “contests of will.” Fighting them without an understanding of the social, economic, and historical factors involved will doom us to “the pipe dream of easy war,” as the title of his piece puts it. And indeed there do not seem to be any easy wars. Increasingly we are seeing asymmetrical wars between well-armed, organized forces on one side and low-level insurgencies on the other, which can span not just a region but a continent or even the globe, and where there is not one enemy but a shifting coalition of local warlords, religious warriors, and other interested parties. Think of Afghanistan or Syria, where local and international players are mingled and what constitutes victory is difficult to define. In such wars those ordering military action must consider not just the combatants on the ground but the elusive yet critical factor of public opinion. Thanks to social media, every air strike, artillery shell, and cloud of poison gas that hits civilian targets is now filmed and tweeted around the world. The ultimate goal of military action must be to achieve political ends, whether to win over local opinion by providing security, to bring competing parties to the table to negotiate, or to persuade the world at large of the rightness of its actions. Those who believe in “precision strikes” and their potential to deliver meaningful victories must understand that or else we, like those who preceded us a hundred years ago, will continue to fight the wrong kinds of battles. FAILURES AT THE TOP "You can't always get the leaders you want…but the world wants leaders who can see the other side." Listen to the author's take on the requirements of leadership in today's world. With different leadership World War I might have been avoided. Europe in 1914 needed a Bismarck or a Churchill with the strength of character to stand up to pressure and the capacity to see the large strategic picture. Instead the key powers had weak, divided, or distracted leaders. Kaiser Wilhelm had come down on the side of peace in earlier crises, but he knew that officers in his beloved army referred to him contemptuously as Wilhelm the Timid. Thus, in 1914, when his generals were urging him that the time had come for a preventive war on Russia, he was afraid of appearing weak. Just after the assassination of the heir to the throne in Sarajevo, when Germany issued the infamous “blank cheque” promising to back Austria-Hungary come what may, Wilhelm said—repeatedly—to a close friend: “This time I shall not give in.” His chancellor, Theobald von Bethmann Hollweg, devastated by the recent death of his wife, accepted the prospect of war with glum resignation. And in Austria-Hungary itself, the war party led by the generals now had the upper hand, for the assassination of the archduke had ironically removed the one man who might have resisted the drift to war. As it was, the old and ailing emperor, Franz Josef I, was left alone to face the hawks. On the other side, Russia, like Germany, had a weak ruler with too much power—and too great a fear of appearing weak. Tsar Nicholas hesitated but in the end gave way to his own war party and ordered the general mobilization that made war with Germany inevitable. The clinching argument, apparently, came from one of his ministers, who told him he could not save his throne or the lives of himself and his family unless he showed himself to be resolute against Russia’s enemies. The British government, which might have acted decisively enough early in the crisis to have deterred Germany, was preoccupied by the prospect of a civil war over Ireland. And the prime minister, Herbert Asquith, who was also distracted by a new love affair, allowed the slide to war to gather momentum, even as Sir Edward Grey, the foreign secretary, floated ineffectual proposals for negotiations. In Washington President Woodrow Wilson watched the events with dismay from his place at the side of his dying wife, but at first he saw no good reason why the U.S. should intervene in a European quarrel. Contrast the behavior of the men in power in 1914 with that of John F. Kennedy nearly five decades later, during the Cuban Missile Crisis, when the world faced an even greater threat. The young and relatively untried U.S. president was urged by virtually his entire top military leadership as well as many of the civilians in his administration to confront the Soviet Union vigorously, up to the point of invading Cuba and so risking an all-out nuclear war. Standing up to them, he opted instead for negotiations with Moscow and, in the end, preserved the peace. It was perhaps fortunate that he had just read Barbara Tuchman’s great The Guns of August and was very mindful of the ways nations can blunder into war. Today the American president is facing a series of politicians in China who, like those in Germany a century ago, are deeply concerned that their nation be taken seriously. In Putin he must deal with a Russian nationalist who is both wilier and stronger than the unfortunate Tsar Nicholas. Barack Obama, like Woodrow Wilson, is a great orator, capable of laying out his vision of the world and inspiring Americans. But like Wilson at the end of the 1914-18 war, Obama is dealing with a partisan and uncooperative Congress. Perhaps even more worrying, he may be in a position similar to Asquith’s in 1914, presiding over a country so divided internally that it is unwilling or unable to play an active and constructive role in the world. WANTED: A WORLD POLICEMAN Britain, which once played an international leadership role during the 19th and the first part of the 20th centuries, in the end found the demands too great and the costs too high. After World War II the British people were no longer willing and the British economy no longer capable of sustaining such a role. The U.S. has so far been prepared to act as the guarantor of international stability, but may not be willing—or able—to do so indefinitely. Over a century ago, at a time when it was well-launched on its rise to world power status and in the process of translating its huge and growing economic strength into military and foreign policy, it began to assume the mantle of leadership. Teddy Roosevelt and Woodrow Wilson, though they were two very different types of men, shared the feeling that the U.S. had a moral obligation to the world. “We have become a great nation,” Roosevelt said, “and we must behave as beseems a people with such responsibilities.” Since then, there have been times when isolationist sentiments have threatened this commitment, but the U.S. has for the most part remained deeply engaged in world affairs, through World War II, to the effort to contain Soviet aggression during the Cold War, and to the present global war on terrorism. With the collapse of the Soviet Union and its empire at the end of the 1980s, the U.S., perhaps without reflecting, continued to act as the world’s hegemon, assuming responsibilities that ranged from stabilizing the international economy to ensuring security. The long agony of Bosnia finally came to an end in 1995 when American pressure in combination with NATO military action persuaded the Serbs to enter into the Dayton Agreement. And although America’s actions in Iraq and Libya were certainly not met with universal acclaim, even in the U.S. itself, Saddam Hussein and Moammar Gaddafi had few friends and many enemies by the time they met their ends at American hands. Today, however, the U.S., while still the strongest power in the world, is not as powerful as it once was. It has suffered military setbacks in Iraq and Afghanistan, and has had difficulty finding allies who will stand by it, as the current Syrian crisis demonstrates. Uncomfortably aware that they have few reliable friends and many potential enemies, the Americans are now considering a return to a more isolationist policy. Is the U.S. now reaching the end of its tether, as Britain did before it? If it retreats even partially from its global role, which powers will dominate the international order, and what will that mean for the prospects of world peace? It is difficult to guess what might come next. Russia may dream of its Soviet past when it was a superpower, but with a chaotic economy and a declining population its ambitions far outrun its capacities. China is a rising power but its preoccupations are likely to be focused on Asia. Further afield it will concentrate, as it is doing at present, on securing the resources it needs for its economy, while probably being reluctant to intervene in far-off conflicts where it has little at stake. The European Union talks of a world role but so far has shown little inclination to develop its military resources, and its internal divisions make it increasingly difficult for Brussels to get agreement on foreign policy. The countries in the BRICS group—Brazil, Russia, India, China, and South Africa—are joined together more in theory than reality. The hope of a coalition of democracies, from Asia to America, willing to intervene in the name of humanitarianism or international stability, reminds me of the old story of the mice and the cat—who is going to be first to put the bell around the animal’s neck? As for public opinion, the citizenry within individual countries, preoccupied with domestic issues, has become increasingly unwilling to fund or take part in foreign adventures. It may take a moment of real danger to force the major powers of this new world order to come together in coalitions able and willing to act. Action, if it does come, may be too little and too late, and the price we all pay for that delay may well be high. Instead of muddling along from one crisis to another, now is the time to think again about those dreadful lessons of a century ago in the hope that our leaders, with our encouragement, will think about how they can work together to build a stable international order.

## Accidents

### No LOW

#### The aff is just wrong about current nuclear postures. Strategic concerns about deterrence have driven the US and Russia away from Launch on Warning doctrines.

Ford 2008

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To be sure, there are some suggestions that the Soviets might, at least for a while, have adopted a launch-on-warning policy. Lawrence Freedman, for example, quotes comments from Soviet officials in the 1960s and 1970s that arguably imply this.15 Nevertheless, in more recent years, this appears less likely to be the case. Russia seems markedly to have increased its overall reliance upon nuclear weapons since the end of the Cold War, but this by no means necessarily entails adoption of operationally brittle launch-on-warning policies. In fact, Russia’s reliance upon ICBM missile silos hardened considerably beyond U.S. practice, remarkably extensive underground facilities for the protection of leadership assets,16 at least a small SSBN force capable of undertaking deterrent patrols, and a growing arsenal of mobile ICBMs suggests that Moscow wishes to reserve the option of – and may indeed anticipate – “riding out” an attack rather than launching in response to “use or lose” considerations. Though one should always be wary of assuming that the other side shares one’s own perceptions and assumptions, it seems likely that both Russian and American nuclear forces are today planned and postured in order to provide their national leadership with maximum decision-making time and flexibility. This means neither depending upon LoW nor entirely ruling it out, each side thereby hoping better to deter its opponent by denying the other side any conceivable basis for a conclusion that launching a first strike would elicit no retaliation. Even the Canberra Commission Report of 1996, while unstinting in its advocacy of “de-alerting,” conceded that both U.S. and Soviet/Russian forces were in fact “structured to be able to ride out a first nuclear strike,” complaining merely that these forces possessed “‘launch-on-warning’ or ‘launch-under-attack’ options.”17 Yet there is a world of difference between simply being capable of launching quickly and having such rapid launch be considered obligatory, on account of radical “use-or-lose” vulnerability or simply a doctrinal choice. Fortunately, the latter circumstance does not appear to be the case: the nuclear superpowers do not face each other with “hair-trigger” launch-on-warning postures. Most of the de-alerting debate, therefore, is based upon a misconception about U.S. and Russian nuclear policy.

### 2nc – accidents turn

#### RLOAD risks an accidental launch—commanders won’t “know” there is a detonation—faulty communication means we’ll still strike first:

**Tneal, 9/23/2009** (<http://stoopidnoodle.wordpress.com/2009/09/23/retaliatory-launch-only-after-detonation/>, Retaliatory Launch Only After Detonation)

The supposed benefit of RLOAD is that we ‘know’ a first strike has occurred because there is a detonation. But, the field commander contemplating launching does not ‘know’. This is Agamben’s insight on the witness problem. If someone knew a nuclear detonation had occurred then the odds are they are dead. Even if they survived they are not inside a secured military base lording over nuclear weapons. The field commander ‘knows’ there was a detonation **because some device relays that knowledge back to her**. However, that is **precisely what the warning system does,** and the **premise why LOW fails** is because there are **mechanical malfunctions casting doubt on the accuracy** of those knowledge relaying systems. Why RLOAD is then immune from the problem its advocates is not dealt with.

### A2 no accidents

#### Finishing

leading far towards mistaken launch is remote. Precisely because any nuclear weapon processor recognizes the vast gravity of any launch, release sequences have many steps, and human decision is repeatedly interposed as well as capping the sequences. To convey that because a first step was prompted the world somehow came close to accidental nuclear war is wild hyperbole, rather like asserting, when a tennis champion has lost his opening service game, that he was nearly beaten in straight sets. History anyway scarcely offers any ready example of major war started by accident even before the nuclear revolution imposed an order-of-magnitude increase of caution. In was occasion conjectured that nuclear war might be triggered by the real but accidental or unauthorized launch of a strategic nuclear-weapon delivery system in the direction of a potential adversary. No such launch is known to have occurred in over sixty years. The probability of it is therefore very low. But even if it did happen, the further hypothesis of it initiating a general nuclear exchange is far-fetched. It fails to consider the real situation of decision-makers, as pages 63-4 have brought out. The notion that cosmic holocaust might be mistakenly precipitated in this way belongs to science fiction.

## cp

### 2NC Cp

#### Constraints through executive coordination solves signaling

**POSNER & VERMEULE 2006** --- \*Prof of Law at U Chicago, AND \*\* Prof of Law at Harvard (9/19/2006, Eric A. Posner & Adrian Vermeule, “The Credible Executive,” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=931501)>)

IV. Executive Signaling: Law and Mechanisms

We suggest that the executive’s credibility problem can be solved by second-order mechanisms of executive signaling. In the general case, well-motivated executives send credible signals by taking actions that are more costly for ill-motivated actors than for well-motivated ones, thus distinguishing themselves from their ill-motivated mimics. Among the specific mechanisms we discuss, an important subset involve executive self-binding, whereby executives commit themselves to a course of action that would impose higher costs on ill-motivated actors. Commitments themselves have value as signals of benign motivations.This departs from the usual approach in legal scholarship. Legal theory has often discussed self-binding by “government” or government officials. In constitutional theory, it is often suggested that constitutions represent an attempt by “the people” to bind “themselves” against their own future decisionmaking pathologies, or relatedly that constitutional prohibitions represent mechanisms by which governments commit themselves not to expropriate investments or to exploit their populations.71 Whether or not this picture is coherent,72 it is not the question we examine here, although some of the relevant considerations are similar.73 We are not concerned with binding the president so that he cannot abuse his powers, but with how he might bind himself or take other actions that enhance his credibility, so that he can generate support from the public and other members of the government. Furthermore, our question is subconstitutional; it is whether a well-motivated executive, acting within an established set of constitutional and statutory rules, can use signaling to generate public trust. Accordingly we proceed by assuming that no constitutional amendments or new statutes will be enacted. Within these constraints, what can a well-motivated executive do to bootstrap himself to credibility? The problem for the well-motivated executive is to credibly signal his benign motivations; in general, the solution is to engage in actions that are less costly for good types than for bad types. We begin with some relevant law; then examine a set of possible mechanisms, emphasizing both the conditions under which they might succeed and the conditions under which they might not; and then examine the costs of credibility. A. A Preliminary Note on Law and Self-Binding Many of our mechanisms are unproblematic from a legal perspective, as they involve presidential actions that are clearly lawful. But a few raise legal questions; in particular, those that involve self-binding.74 Can a president bind himself to respect particular first-order policies? With qualifications, the answer is “yes, at least to the same extent that a legislature can.” Formally, a duly promulgated executive rule or order binds even the executive unless and until it is validly abrogated, thereby establishing a new legal status quo.75 The legal authority to establish a new status quo allows a president to create inertia or political constraints that will affect his own future choices. In a practical sense, presidents, like legislatures, have great de facto power to adopt policies that shape the legal landscape for the future**.** A president might commit himself to a long-term project of defense procurement or infrastructure or foreign policy, narrowing his own future choices and generating new political coalitions that will act to defend the new rules or policies.More schematically, we may speak of formal and informal means of self-binding: (1) The president might use formal means to bind himself. This is possible in the sense that an executive order, if otherwise valid, legally binds the president while it is in effect and may be enforced by the courts. It is not possible in the sense that the president can always repeal the executive order if he can bear the political and reputational costs of doing so. (2) The president might use informal means to bind himself. This is not only possible but frequent and important. Issuing an executive rule providing for the appointment of special prosecutors, as Nixon did, is not a formal self-binding.76 However, there may be large political costs to repealing the order. This effect does not depend on the courts’ willingness to enforce the order, even against Nixon himself. Court enforcement makes the order legally binding while it is in place, but only political and reputational enforcement can protect it from repeal. Just as a dessert addict might announce to his friends that he is going on a no-dessert diet in order to raise the reputational costs of backsliding and thus commit himself, so too the repeal of an executive order may be seen as a breach of faith even if no other institution ever enforces it. In what follows, we will invoke both formal and informal mechanisms. For our purposes, the distinction between the authority to engage in de jure self-binding (legally limited and well-defined) and the power to engage in de facto self-binding (broad and amorphous) is secondary. So long as policies are deliberately chosen with a view to generating credibility, and do so by constraining the president’s own future choices in ways that impose greater costs on ill-motivated presidents than on well-motivated ones, it does not matter whether the constraint is formal or informal. B. Mechanisms What signaling mechanisms might a well-motivated executive adopt to credibly assure voters, legislators and judges that his policies rest on judgments about the public interest, rather than on power-maximization, partisanship or other nefarious motives? Intrabranch separation of powers. In an interesting treatment of related problems, Neal Katyal suggests that the failure of the Madisonian system counsels “internal separation of powers” within the executive branch.77 Abdication by Congress means that there are few effective checks on executive power; second-best substitutes are necessary. Katyal proposes some mechanisms that would be adopted by Congress, such as oversight hearings by the minority party, but his most creative proposals are for arrangements internal to the executive branch, such as redundancy and competition among agencies, stronger civil-service protections and internal adjudication of executive controversies by insulated “executive” decisionmakers who resemble judges in many ways.78Katyal’s argument is relevant because the mechanisms he discusses might be understood as signaling devices, but his overall approach is conceptually flawed, on two grounds. First, the assumption that second-best constraints on the executive should reproduce the Madisonian separation of powers within the executive branch is never defended. The idea seems to be that this is as close as we can get to the first-best, while holding constant everything else in our constitutional order. But the general theory of second-best states that approaching as closely as possible to the first-best will not necessarily be the preferred strategy;79 the best approach may be to adjust matters on other margins as well, in potentially unpredictable ways. If the Madisonian system has failed in the ways Katyal suggests, the best compensating adjustment might be, for all we know, to switch to a parliamentary system. (We assume that no large-scale changes of this sort are possible, whereas Katyal seemingly assumes that they are, or at least does not make clear his assumptions in this regard). Overall, Katyal’s view has a kind of fractal quality – each branch should reproduce within itself the very same separation of powers structure that also describes the whole system – but it is not explained why the constitutional order should be fractal. Second, Katyal’s proposals for internal separation of powers are self-defeating: the motivations that Katyal ascribes to the executive are inconsistent with the executive adopting or respecting the prescriptions Katyal recommends.80 Katyal never quite says so explicitly, but he clearly envisions the executive as a power-maximizing actor, in the sense that the president seeks to remove all constraints on his current choices.81 Such an executive would not adopt or enforce the internal separation of powers to check himself. Executive signaling is not, even in principle, a solution to the lack of constraints on a power-maximizing executive in the sense Katyal implicitly intends. Although an illmotivated executive might bind himself to enhance his strategic credibility, as explained above, he would not do so in order to restore the balance of powers. Nor is it possible, given Katyal’s premise of legislative passivity or abdication, that Congress would force the internal separation of powers on the executive. In what follows, we limit ourselves to proposals that are consistent with the motivations, beliefs, and political opportunities that we ascribe to the well-motivated executive, to whom the proposals are addressed. This limitation ensures that the proposals are not self-defeating, whatever their costs. The contrast here must not be drawn too simply. A well-motivated executive, in our sense, might well attempt to increase his power. The very point of demonstrating credibility is to encourage voters and legislators to increase the discretionary authority of the executive, where all will be made better off by doing so. Scholars such as Katyal who implicitly distrust the executive, however, do not subscribe to this picture of executive motivations. Rather, they see the executive as an unfaithful agent of the voters; the executive attempts to maximize his power even where fully-informed voters would prefer otherwise. An actor of that sort will have no incentive to adopt proposals intended to constrain that sort of actor. Independent commissions. We now turn to some conceptually coherent mechanisms of executive signaling. Somewhat analogously to Katyal’s idea of the internal separation of powers, a well-motivated executive might establish independent commissions to review policy decisions, either before or after the fact. Presidents do this routinely, especially after a policy has had disastrous outcomes, but sometimes beforehand as well. Independent commissions are typically blue-ribbon and bipartisan.82 We add to this familiar process the idea that the President might gain credibility by publicly committing or binding himself to give the commission authority on some dimension. The president might publicly promise to follow the recommendations of such a commission, or to allow the commission to exercise de facto veto power over a policy decision before it is made, or might promise before the policy is chosen that the commission will be given power to review its success after the fact. To be sure, there will always be some wiggle room in the terms of the promise, but that is true of almost all commitments, which raise the costs of wiggling out even if they do not completely prevent it. Consider whether George W. Bush’s credibility would have been enhanced had he appointed a blue-ribbon commission to examine the evidence for weapons of mass destruction in Iraq before the 2003 invasion, and publicly promised not to invade unless the commission found substantial evidence of their existence. Bush would have retained his preexisting legal authority to order the invasion even if the commission found the evidence inadequate, but the political costs of doing so would have been large. Knowing this, and knowing that Bush shared that knowledge, the public could have inferred that Bush’s professed motive – elimination of weapons of mass destruction – was also his real motive. Public promises that inflict reputational costs on badly motivated behavior help the well-motivated executive to credibly distinguish himself from the ill-motivated one. The more common version of this tactic is to appoint commissions after the relevant event, as George W. Bush did to investigate the faulty reports by intelligence agencies that Iraq possessed weapons of mass destruction.83 If the president appoints after-the-fact commissions, the commissions can enhance his credibility for the next event—by showing that he will be willing, after that event, to subject his statements to scrutiny by public experts. Here, however, the demonstration of credibility is weaker, because there is no commitment to appoint any after-the-fact commissions in the future – merely a plausible inference that the president’s future behavior will track his past behavior. Bipartisan appointments. In examples of the sort just mentioned, the signaling arises from public position-taking. The well-motivated executive might produce similar effects through appointments to office.84 A number of statutes require partisan balance on multimember commissions; although these statutes are outside the scope of our discussion, we note that presidents might approve them because they allow the president to commit to a policy that legislators favor, thus encouraging legislators to increase the scope of the delegation in the first place.85 For similar reasons, presidents may consent to restrictions on the removal of agency officials, because the restriction enables the president to commit to giving the agency some autonomy from the president’s preferences.86 Similar mechanisms can work even where no statutes are in the picture. As previously mentioned, during World War II, FDR appointed Republicans to important cabinet positions, making Stimson his Secretary of War. Clinton appointed William Cohen, a moderate Republican, as Secretary of Defense in order to shore up his credibility on security issues. Bipartisanship of this sort might improve the deliberation that precedes decisions, by impeding various forms of herding, cascades and groupthink;87 however, we focus on its credibility-generating effects. By (1) expanding the circle of those who share the president’s privileged access to information, (2) ensuring that policy is partly controlled by officials with preferences that differ from the president’s, and (3) inviting a potential whistleblower into the tent, bipartisanship helps to dispel the suspicion that policy decisions rest on partisan motives or extreme preferences, which in turn encourages broader delegations of discretion from the public and Congress. A commitment to bipartisanship is only one way in which appointments can generate credibility. Presidents might simply appoint a person with a reputation for integrity, as when President Nixon appointed Archibald Cox as special prosecutor (although plausibly Nixon did so because he was forced to do so by political constraints, rather than as a tactic for generating credibility). A person with well-known preferences on a particular issue, even if not of the other party or widely respected for impartiality, can serve as a credible whistleblower on that issue. Thus presidents routinely award cabinet posts to leaders of subsets of the president’s own party, leaders whose preferences are known to diverge from the president’s on the subject; one point of this is to credibly assure the relevant interest groups that the president will not deviate (too far) from their preferences. The Independent Counsel Statute institutionalized the special prosecutor and strengthened it. But the statute proved unpopular and was allowed to lapse in 1999.88 This experience raises two interesting questions. First, why have presidents confined themselves to appointing lawyers to investigate allegations of wrongdoing; why have they not appointed, say, independent policy experts to investigate allegations of policy failure? Second, why did the Independent Counsel Statute fail? Briefly, the statute failed because it was too difficult to control the behavior of the prosecutor, who was not given any incentive to keep his investigation within reasonable bounds.89 Not surprisingly, policy investigators would be even less constrained since they would not be confined by the law, and at the same time, without legal powers they would probably be ignored on partisan grounds. A commission composed of members with diverse viewpoints is harder to ignore, if the members agree with each other. More generally, the decision by presidents to bring into their administrations members of other parties, or persons with a reputation for bipartisanship and integrity, illustrates the formation of domestic coalitions of the willing. Presidents can informally bargain around the formal separation of powers90 by employing subsets of Congress, or of the opposing party, to generate credibility while maintaining a measure of institutional control. FDR was willing to appoint Knox and Stimson, but not to give the Republicans in Congress a veto. Truman was willing to ally with Arthur Vandenbergh but not with all the Republicans; Clinton was willing to appoint William Cohen but not Newt Gingrich. George W. Bush likewise made a gesture towards credibility by briefing members of the Senate Intelligence Committee – including Democrats – on the administration’s secret surveillance program(s), which provided a useful talking point when the existence of the program(s) was revealed to the public. Counter-partisanship. Related to bipartisanship is what might be called counterpartisanship: presidents have greater credibility when they choose policies that cut against the grain of their party’s platform or their own presumed preferences.91 Only Nixon could go to China, and only Clinton could engineer welfare reform. Voters and publics rationally employ a political heuristic: the relevant policy, which voters are incapable of directly assessing, must be highly beneficial if it is chosen by a president who is predisposed against it by convictions or partisan loyalty.92 Accordingly, those who wish to move U.S. terrorism policy towards greater security and less liberty might do well to support the election of a Democrat.93 By the same logic, George W. Bush is widely suspected of nefarious motives when he rounds up alleged enemy combatants, but not when he creates a massive prescription drug benefit. Counter-partisanship can powerfully enhance the president’s credibility, but it depends heavily on a lucky alignment of political stars. A peace-loving president has credibility when he declares a military emergency but not when he appeases; a belligerent president has credibility when he offers peace but not when he advocates military solutions. A lucky nation has a well-motivated president with a belligerent reputation when international tensions diminish (Ronald Reagan) and a president with a pacific reputation when they grow (Abraham Lincoln, who opposed the Mexican War). But a nation is not always lucky. Transparency. The well-motivated executive might commit to transparency, as a way to reduce the costs to outsiders of monitoring his actions.94 The FDR strategy of inviting potential whistleblowers from the opposite party into government is a special case of this; the implicit threat is that the whistleblower will make public any evidence of partisan motivations. The more ambitious case involves actually exposing the executive’s decisionmaking processes to observation. To the extent that an ill-motivated executive cannot publicly acknowledge his motivations or publicly instruct subordinates to take them into account in decisionmaking, transparency will exclude those motivations from the decisionmaking process. The public will know that only a well-motivated executive would promise transparency in the first place, and the public can therefore draw an inference to credibility.Credibility is especially enhanced when transparency is effected through journalists with reputations for integrity or with political preferences opposite to those of the president. Thus George W. Bush gave Bob Woodward unprecedented access to White House decisionmaking, and perhaps even to classified intelligence,95 with the expectation that the material would be published. This sort of disclosure to journalists is not real-time transparency – no one expects meetings of the National Security Council to appear on CSPAN – but the anticipation of future disclosure can have a disciplining effect in the present. By inviting this disciplining effect, the administration engages in signaling in the present through (the threat of) future transparency.There are complex tradeoffs here, because transparency can have a range of harmful effects. As far as process is concerned, decisionmakers under public scrutiny may posture for the audience, may freeze their views or positions prematurely, and may hesitate to offer proposals or reasons for which they can later be blamed if things go wrong.96 As for substance, transparency can frustrate the achievement of programmatic or policy goals themselves. Where security policy is at stake, secrecy is sometimes necessary to surprise enemies or to keep them guessing. Finally, one must take account of the incentives of the actors who expose the facts—especially journalists who might reward presidents who give them access by portraying their decisionmaking in a favorable light.97 We will take up the costs of credibility shortly.98 In general, however, the existence of costs does not mean that the credibility-generating mechanisms are useless. Quite the contrary: where the executive uses such mechanisms, voters and legislators can draw an inference that the executive is well-motivated, precisely because the existence of costs would have given an ill-motivated executive an excuse not to use those mechanisms.

### Deferring Now Uniquneess

#### We overwhelmingly control uniqueness---all federal courts are either siding with the executive’s terror policies through narrow rulings or declining to even hear the cases---past rulings are being distinguished

Jonathan L. Entin 12, Associate Dean for Academic Affairs (School of Law), David L. Brennan Professor of Law, and Professor of Political Science, Case Western Reserve University. War Powers, Foreign Affairs, and the Courts: Some Institutional Considerations, 45 Case W. Res. J. Int'l L. 443

Although these procedural and jurisdictional barriers to judicial review can be overcome, those who seek to limit what they regard as executive excess in military and foreign affairs should not count on the judiciary to serve as a consistent ally. The Supreme Court has shown substantial deference to the president in national security cases. Even when the Court has rejected the executive's position, it generally has done so on relatively narrow grounds.¶ Consider the Espionage Act cases that arose during World War I. Schenck v. United States, n63 which is best known for Justice Holmes's [\*452] announcement of the clear and present danger test, upheld a conviction for obstructing military recruitment based on the defendant's having mailed a leaflet criticizing the military draft although there was no evidence that anyone had refused to submit to induction as a result. Justice Holmes almost offhandedly observed that "the document would not have been sent unless it had been intended to have some effect, and we do not see what effect it could be expected to have upon persons subject to the draft except to influence them to obstruct the carrying of it out." n64 The circumstances in which the speech took place affected the scope of First Amendment protection: "When a nation is at war many things that might be said in time of peace are such a hindrance to its effort that their utterance will not be endured so long as men fight and that no Court could regard them as protected by any constitutional right." n65 A week later, without mentioning the clear and present danger test, the Court upheld the conviction of the publisher of a German-language newspaper for undermining the war effort n66 and of Eugene Debs for a speech denouncing the war. n67 Early in the following term, Justice Holmes refined his thinking about clear and present danger while introducing the marketplace theory of the First Amendment in Abrams v. United States, n68 but only Justice Brandeis agreed with his position. n69 The majority, however, summarily rejected the First Amendment defense on the basis of Holmes's opinions for the Court in the earlier cases. n70¶ Similarly, the Supreme Court rejected challenges to the government's war programs during World War II. For example, the Court rebuffed a challenge to the use of military commissions to try German saboteurs. n71 Congress had authorized the use of military tribunals in such cases, and the president had relied on that authorization in directing that the defendants be kept out of civilian courts. n72 In addition, the Court upheld the validity of the Japanese internment program. n73 Of course, the Court did limit the scope of the [\*453] program by holding that it did not apply to "concededly loyal" citizens. n74 But it took four decades for the judiciary to conclude that some of the convictions that the Supreme Court had upheld during wartime should be vacated. n75 Congress eventually passed legislation apologizing for the treatment of Japanese Americans and authorizing belated compensation to internees. n76¶ The Court never directly addressed the legality of the Vietnam War. The Pentagon Papers case, for example, did not address how the nation became militarily involved in Southeast Asia, only whether the government could prevent the publication of a Defense Department study of U.S. engagement in that region. n77 The lawfulness of orders to train military personnel bound for Vietnam gave rise to Parker v. Levy, n78 but the central issue in that case was the constitutionality of the provisions of the Uniform Code of Military Justice that were the basis of the court-martial of the Army physician who refused to train medics who would be sent to the war zone. n79 The few lower courts that addressed the merits of challenges to the legality of the Vietnam War consistently rejected those challenges. n80¶ The picture in the post-2001 era is less clear. In three different cases the Supreme Court has rejected the executive branch's position, but all of those rulings were narrow in scope. For example, Hamdi v. Rumsfeld n81 held that a U.S. citizen held as an enemy combatant must be given a meaningful opportunity to have a neutral decision-maker determine the factual basis for his detention. There was no majority opinion, however, so the implications of the ruling were ambiguous to say the least. Justice O'Connor's plurality opinion for four members of the Court concluded that Congress had authorized the president to detain enemy combatants by passing the Authorization for Use of Military Force n82 and that the AUMF satisfied the statutory requirement of congressional authorization for the detention of U.S. [\*454] citizens. n83 Justice Souter, joined by Justice Ginsburg, thought that the AUMF had not in fact authorized the detention of American citizens as required by the statute, n84 which suggested that Hamdi should be released. But the Court would have been deadlocked as to the remedy had he adhered to his view of how to proceed. This was because Justices Scalia and Stevens also believed that Hamdi's detention was unlawful and that he should be released on habeas corpus, n85 whereas Justice Thomas thought that the executive branch had acted within its authority and therefore would have denied relief. n86 This alignment left four justices in favor of a remand for more formal proceedings, four other justices in favor of releasing Hamdi, and one justice supporting the government's detention of Hamdi with no need for a more elaborate hearing. To avoid a deadlock, therefore, Justice Souter reluctantly joined the plurality's remand order. n87¶ Hamdi was atypical because that case involved a U.S. citizen who was detained. The vast majority of detainees have been foreign nationals. In Hamdan v. Rumsfeld, n88 the Supreme Court ruled that the military commissions that the executive branch had established in the wake of the September 11 attacks had not been authorized by Congress and therefore could not be used to try detainees. n89 A concurring opinion made clear that the president could seek authorization from Congress to use the type of military commissions that had been established unilaterally in this case. n90¶ Congress responded to that suggestion by enacting the Military Commissions Act of 2006, n91 which sought to endorse the executive's detainee policies and to restrict judicial review of detainee cases. In Boumediene v. Bush, n92 the Supreme Court again rejected the government's position. First, the statute did not suspend the writ of [\*455] habeas corpus. n93 Second, the statutory procedures for hearing cases involving detainees were constitutionally inadequate. n94 At the same time, the Court emphasized that the judiciary should afford some deference to the executive branch in dealing with the dangers of terrorism n95 and should respect the congressional decision to consolidate judicial review of detainee cases in the District of Columbia Circuit. n96¶ Detainees who have litigated in the lower federal courts in the District of Columbia have not found a sympathetic forum. The U.S. Court of Appeals for the D.C. Circuit has not upheld a single district court ruling that granted any sort of relief to detainees, and the Supreme Court has denied certiorari in every post-Boumediene detainee case in which review was sought. n97 In only one case involving a detainee has the D.C. Circuit granted relief, and that case came up from a military commission following procedural changes adopted in the wake of Boumediene. n98 About a month after this symposium took place, in Hamdan v. United States n99 the court overturned a conviction for providing material support for terrorism. The defendant was the same person who successfully challenged the original military commissions in Hamdan v. Rumsfeld. n100 This very recent ruling emphasized that the statute under which he was prosecuted did not apply to offenses committed before its enactment. n101 It remains to be seen how broadly the decision will apply. [\*456] ¶ Meanwhile, other challenges to post-2001 terrorism policies also have failed, and the Supreme Court has declined to review those rulings as well. For example, the lower courts have rebuffed claims asserted by foreign nationals who were subject to extraordinary rendition. In Arar v. Ashcroft, n102 the U.S. Court of Appeals for the Second Circuit affirmed the dismissal of constitutional and statutory challenges brought by a plaintiff holding dual citizenship in Canada and the United States. n103 And in Mohamed v. Jeppesen Dataplan, Inc., n104 the U.S. Court of Appeals for the Ninth Circuit held that the state-secrets privilege barred a separate challenge to extraordinary rendition brought by citizens of Egypt, Morocco, Ethiopia, Iraq, and Yemen. n105 Unlike Arar, in which the defendants were federal officials, n106 this case was filed against a private corporation that allegedly assisted in transporting the plaintiffs to overseas locations where they were subjected to torture. n107 Although at least four judges on the en banc courts dissented from both rulings, n108 the Supreme Court declined to review either case. n109

### turns case – nuke deference good

Shifting nuclear planning at all destroys deterrence

John Norton Moore, Walter L. Brown Professor of Law at the University of Virginia School of Law, 1987, First Use of Nuclear Weapons : Under the Constitution, Who Decides?, p. 30-2

Constitutional constraints can, if warranted, always be changed by constitutional amendment. And, short of this ultimate legal issue of constitutional revision, there is a dynamic interrelation between legal appraisal and policy proposals concerning structural changes in the mechanism for conduct of foreign policy. Accordingly, any effort to artificially prohibit consideration of policy considerations in responsible performance of all intellectual tasks in legal appraisal — particularly in an area of such enormous human concern as war prevention — would seem grotesque. I would briefly suggest the following as policy reasons that seem to me persuasive, even if the law were not negative, in decisively rejecting the FAS proposal: First, I believe the FAS proposal would at least marginally increase the risk of war and possible use of nuclear weapons — despite Dr. Stone ’ s clear intention to reduce the risk of war and nuclear use. For all its obvious problems, I believe the doctrine of flexible response in NATO is — at current comparative force levels — a significant contribution to deterrence. To modify that doctrine, even by the FAS procedural proposal, would, I believe, somewhat — and perhaps substantially — reduce deterrence. Page 31 Deterrence would be affected by the probable(and at least possible) added time required to fully involve a congressional committee and to await a decision from such a body. What, for example, is the possibility that key congressional committee members might be out of the country or otherwise unavailable during a crisis or that they simply could not agree in time? Deterrence would be affected by the enhanced likelihood of a negative decision if a veto were provided any additional decision maker. Indeed, it might be subject to reduction if a potential attacking power simply believed that a majority of any special committee favored no first use. And finally, since any no first use decision is only likely to arise in a setting where there has been a massive illegal attack and conventional forces are unable to hold, the perception in NATO Europe may well be that the purpose of such a congressional check is to permit a decoupling of the security of NATO and American strategic forces. This perception seems to me highly likely to result from such a policy whatever its motivation. And this perception alone could reduce deterrence, as well as the NATO political bond with the United States. The proposal might also serve to reduce deterrence by convincing a potential adversary that nuclear weapons might not be authorized in response but that if they were authorized then a preemptive nuclear strike might still be launched before retaliation because of the likely notice attendant on committee authorization. It is possible that committee authorizaton — or even erroneously perceived committee authorization — if committee decisions were secret, would even trigger a nuclear attack out of fear of such a first use. And if committee real time nuclear use decisions are to be different than simply a no first use or other congressionally mandated general policy, then the committee would have specific information concerning a decision to use nuclear weapons. Such an added intelligence target would be likely to trigger an enormous intelligence effort directed at the committee — and possible reduction in deterrence based even on leaks of erroneous information. To decrease the size of the committee and reduce this risk reduces any policy “ check ” offered by the committee but to have a larger more useful “ check ” increases this risk — probably geometrically rather than arithmetically under normal principles concerning access to intelligence information. And if the FAS proposal were clarified to involve the full Congress, I would regard these timing and secrecy issues as very substantially undermining deterrence and thus unworkable in the real world. These problems of Congress as a whole making real time command decisions concerning the conduct of hostilities were, after all, precisely the characteristics that wisely led the Framers to reject a role for Congress in the operational chain of command. 20

Causes key delays

Robert Turner, President, U.S. Institute for Peace; formerly Senior Fellow, Center for Law and National Security, University of Virginia School of Law, 1987, First Use of Nuclear Weapons: Under the Constitution, Who Decides?, p. 47-8

C. Its “ Leadership Committee ” Cannot Practically Act at All Given the propensity of legislative leaders for foreign travel, the proposed legislation is almost comical. It makes no provision, for example, for a massive Soviet attack against Western Europe and the United States during a congressional recess or period of adjournment. Under the FAS proposal, unless the President could track down a majority of the leaders of Congress, his hands would be tied — even if the Soviets were murdering tens of millions of Americans with a “ Yellow Rain ” and nerve gas attack. And if you doubt that it might be difficult to even locate a majority of congressional leaders during a recess — much less bring them together for the kind of detailed classified briefing and discussion that would be necessary for them to make an informed decision — I urge you to reflect upon the difficulties President Ford had during the Easter Recess of 1975 when he tried to “ consult ” with congressional leaders about the humanitarian evacuation of DaNang, Vietnam. As recounted in his autobiography, President Ford explained: Not a single leader of either party remained in the capital. Three of them were in Greece, two in the People ’ s Republic of China, two in Mexico, one in Europe, and another in the Middle East. The rest were in twelve widely scattered locations in the United States. Obviously, the “ consultation ” called for by the [War Powers Resolution] was impossible. 48 Of course, that was essentially in peacetime, and Ford was eventually able to get a message to the Senate Majority Leader by sending a cable through the United States Embassy in Peking. If an attack were to take place while a congres ­ Page 48 sional leadership delegation was visiting Moscow, the FAS proposal would presumably leave the President’s hands permanently tied (unless of course Congress was able to meet and repeal the law). I haven ’ t even addressed the security problems that would accompany such a statutory scheme. In the event of a war, it would be extremely difficult for the President to convene the special congressional leadership committee without the event coming to the attention of the press. Given its willingness to publish other sensitive national security secrets, there is little reason to believe the Washington Post would not speculate that the President might be seeking permission to launch a massive nuclear strike on an adversary. Even if the meeting were in fact only to brief the congressional leaders on the progress of the conflict — or perhaps to seek their advice on a peace proposal — such speculation might well be present. And even without the help of the press, our adversaries have sophisticated intelligence services that would almost certainly go to great efforts to monitor the comings and goings of congressional leaders in time of crisis. Given a report that the President was meeting with the individuals empowered to authorize an American nuclear first strike, might not an adversary decide to strike the United States first? Perhaps it is not surprising that, when a milder version of the FAS plan was put to a vote on the Senate floor in 1972 — with the sponsorship of the Chairman of the Foreign Relations Committee — it was defeated by a vote of 68 to 10.

Low threshold b/c crisis stability is delicate

John Norton Moore, Walter L. Brown Professor of Law at the University of Virginia School of Law, 1987, First Use of Nuclear Weapons : Under the Constitution, Who Decides?, p. 33-4

The proposal by Dr. Jeremy Stone is an imaginative proposal that unequivocally deserves a fair, on the merits, appraisal of both its legal and policy dimensions. Despite its laudable intentions to reduce the risk of nuclear use, however, it should just as unequivocally be rejected. It is, on multiple grounds, unconstitutional even if the existing ambiguity in congressional power to regulate the presidential power as commander in chief to conduct constitutionally authorized hostilities were to be resolved in favor of a congressional power to establish a general no first use policy — a conclusion which is far from established. And, even more decisively, its real world effect would be to reduce deterrence and crisis stability. There are more promising policies that deserve our attention in reducing the risk of nuclear use. All such alternative policies have in common an effort to deal directly with the unhappy real dilemma faced by NATO in light of the massive Warsaw Pact conventional forces and rough equivalence between United States and Soviet forces at the central strategic level. In contrast, the no first use proposals, in both their substantive and procedural variants, seem largely cosmetic and suggest the exchange during the Constitutional Convention when it was proposed that the armed forces of the United States be constitutionally limited to 3,000 men. General Washington was heard to whisper that perhaps the Constitution should also deny any foreign power the right to invade the United States with more than 3,000 troops.

Causes nuclear war

Robert Turner, President, U.S. Institute for Peace; formerly Senior Fellow, Center for Law and National Security, University of Virginia School of Law, 1987, First Use of Nuclear Weapons: Under the Constitution, Who Decides?, p. 37

One of the most alarming legislative proposals in recent years in my view is the proposal by the Federation of American Scientists (FAS) to empower a committee of congressional leaders with a veto over a presidential decision to use nuclear weapons in response to a foreign attack — unless the aggressor state used such weapons first. 1 I don ’ t question the sincerity of the people who propose this legislation, and I certainly share their view that a nuclear war would be horrendous. But after looking it over I can ’ t find a single element in the proposed bill that is useful. Such a law would in my view be flagrantly unconstitutional on at least two grounds, and rather than promote peace the bill would weaken our deterrent and make both conventional and nuclear war more likely.

### at: no link

Their ev is just o’connor’s opinion – not the supreme court justice, 1 dude at a law firm

The plan destroys presidential war power

John Norton Moore, Walter L. Brown Professor of Law at the University of Virginia School of Law, 1987, First Use of Nuclear Weapons : Under the Constitution, Who Decides?, p. 29-30

As this summary suggests, the real constitutional issue is not the power of the President to conduct hostilities absent specific statutory authority, but in what areas, if any, Congress can restrict that power regard it as a paradigm principle of American constitutional law that the President may conduct hostilities against an attacking nation, including in extremis making decisions to employ nuclear weapons in settings where, as here, Congress has not enacted any prohibition on such use. Thus, a premise of the Stone essay, embodied in its title, that “ Presidential First Use is Unlawful, ” seems to me, in a setting in which Congress has even rejected a no first use approach, as simply hyperbole by Dr. Stone. 14 As indicated, the more interesting — and real — constitutional issue is the power of Congress to place policy limits on the exercise by the President of his power as commander in chief to conduct hostilities. Congress certainly cannot intervene to make day to day tactical command decisions but it is arguable that it may under its power to make “ rules for the government ” of the army, or its other congressional powers, place certain policy restrictions on command decisions, such as those limiting conduct of hostilities by area or with nuclear weapons. Even this proposition, however, is unclear and certainly many command decisions are constitutionally exclusive in the President. Thus, Dr. Berdahl points out that a distinguished ex Justice of the Supreme Court, Charles E.Hughes, among others, viewed congressional efforts at area restrictions on use of forces as impermissible. Hughes wrote: “ There is no limitation upon the authority of Congress to create an army and it is for the President as commander in chief to direct the campaigns of that army wherever he may think they should be carried on. ” 15 The pervasive ambiguity on this issue is illustrated by the classic language in the 1893 Court of Claims case of Swaim v. United States: The President cannot, under the disguise of military orders, evade the legislative regulations by which he in common with the Army must be governed; and Congress cannot in the disguise of “ rules for the government ” of the Army impair the authority of the President as commander in chief. 16 The case of Myers v. United States 17 makesit clear in an area exclusively entrusted to the President under the Constitution, whatever the precise parameters of such areas in relation to the Presidential power to conduct hostilities, Congress is powerless to encroach.

Their answers don’t pass the common sense test

Robert Turner, President, U.S. Institute for Peace; formerly Senior Fellow, Center for Law and National Security, University of Virginia School of Law, 1987, First Use of Nuclear Weapons: Under the Constitution, Who Decides?, p. 45-6

Dr. Stone is not a lawyer, and I shouldn ’t be too critical of his attempts at constitutional analysis. However he is an intelligent man, and when he quotes one historian and two law professors in support of this position, and then writes: “ Accordingly, most legal scholars would seem to admit ... that Congress had the right to control ” the decision to first use nuclear weapons — he fails to pass even the “ straight face ” test. Dr. Stone notes that under the Continental Congress when George Washington was made “ commander in chief ” he was placed under the control of a congressional committee. From this he argues: “ In other words, commander in chief, as delegates understood the title, was subordinate to a strategy committee of the Continental Congress. ” Let us be courteous and note that Stone is also not an historian. The Federalist Papers and other histories of the Constitution establish beyond doubt that a major reason for placing the control of foreign affairs and the direction of whatever military force Congress provided in the hands of an independent President was precisely because the earlier system had been such a disaster. As already noted, John Jay referred precisely to this early failure in The Federalist No. 64 when he wrote: “ So often and so essentially have we heretofore suffered from the want of secrecy and dispatch, that the Constitution would have been inexcusably defective if no attention had been paid to those objects. ” 41 After discussing a number of alternative plans, the Founding Fathers agreed upon a system of three separate, co equal and independent branches of government, and rejected the idea that the President would be simply a subordinate agent of the legislature. War related powers were given to both the Congress and the President. Congress was given control of the size of the army, and also a specific veto on any executive proposal to launch a “ war ” against another state, as a guard against presidential adventurism. As Jefferson phrased it in a 1789 letter to James Madison: “ We have already given ... one effectual check to the dog of war, by transferring the power of declaring war from the executive to the legislative body, from those who are to spend, to those who are to pay. ” 42 But I am aware of no evidence that the Founding Fathers intended to place impediments in the path of the executive in the event war was forced upon the country by foreign attack. Indeed, in The Federalist No. 70 Hamilton explained that “ [ e]nergy in the executive ” was “ essential to the protection of the community against foreign attacks. ” 43 He added: That unity is conducive to energy will not be disputed. Decision, activity, secrecy, and dispatch will generally characterise the proceedings of one man, in a much more eminent degree, than the proceedings of any greater number; and in proportion as the number is increased, these qualities will be diminished. This unity may be destroyed in two ways; either by vesting the power in two or more magistrates of equal dignity and authority; or by vesting it ostensibly in one man, subject in whole or in part to the controul and co operation of others, in the capacity of counsellors to him ... . 44 Thus the strategic and tactical decisions on how best to subdue an enemy in wartime are granted by the Constitution expressly to the President. Just as Congress would exceed its authority by enacting legislation directing the President during hostilities to deploy a particular unit from one hill to another, it would also exceed its proper authority by seeking to direct the President (at least in a defensive setting) to use or not to use a particular weapon in the existing arsenal against an armed enemy. As Professor Wright explained, Congress may not “ limit [the President ’ s] legal power as commander in chief to employ the means at his disposal ” to subdue the enemy. 45

Its micromanagement of the military on a whole new level

Stephen Carter, Associate Professor of Law, Yale University, 1986, The Constitution and the Prevention of Nuclear Holocaust: A Reaction to Professor Banks, http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=3261&context=fss\_papers

Little of this would be effective, of course, in "micromanaging" the President's choice of particular weapons systems in any particular conflict. Yet the change in constitutional language from "make" to "declare" strongly suggests that nobody thought micromanagement of that nature was an appropriate congressional role. Thus if other mechanisms for permitting the Congress to playa direct role in approving the expenditure of particular weapons seem awkward or unworkable, this may simply be evidence that the system cannot be adapted to that purpose. The Congress can and should decide whether the nation will fight and-on the theory I have pressed-whether the nation should stop. But once the battle is joined, the Constitution surely leaves the choice of weapons to the President.49

### Their plan kills deterrence link

#### Their plan kills flexibility necessary to allied assurances.

ACA ‘7 (Published on Arms Control Association (http://www.armscontrol.org) Text of Nov. 28 E-mail from Strategic Command responding to ACT's (Arms Control Today )questions on the alert status of U.S. nuclear weapons November 2007

Q1) If "hair-trigger alert" and "launch-on-warning" are incorrect terms for describing the status of US forces on alert, what is the proper term? A1) U.S. nuclear forces are not on “hair trigger” alert. The term “hair trigger” ignores the safeguards, deliberate actions, and procedures required in order to employ nuclear weapons. The U.S. nuclear force posture has evolved since the end of the Cold War. Only a portion of the operationally deployed U.S. nuclear forces is maintained on a ready alert status. **No strategic bombers, 450 Minuteman III IBCMs, and a small number of SSBNs at sea are on alert at any given time**. **U.S. policy is not to rely on a "launch on warning" strategy. U.S. strategic forces are postured to provide maximum flexibility so the U.S. is not faced with a “use or lose” dilemma.** A major strike on the U.S. would be required to eliminate the responsive ICBM capability. **The ICBM force could be launched prior to impact, but only if the President were to direct such an action.** In addition, should the ICBM force not be able to respond, **the U.S. SSBNs at sea could deliver an overwhelming response if directed by the President**. Should the international security situation call for it, the U.S. could bring its nuclear forces to a higher state of readiness (i.e., “generated alert”), putting a larger portion of its submarines to sea and returning heavy bombers to alert, to increase their survivability. Q2) The US government has made statements to the effect of as long as nuclear weapons exist it is necessary for us to keep some portion of our forces at some level of alert. What is the proper description or term for that "level of alert?" A2) See answer 1. A portion of U.S. nuclear forces are on day-to-day alert. Since the end of the Cold War, however, the U.S. has reduced dramatically both the overall number of nuclear weapons and nuclear systems maintained on day-to-day alert. To ensure deterrence, U.S. nuclear forces must be postured such that, under any credible scenario, a sufficient number of nuclear weapons would survive to respond to an aggressor’s attempt to carry out a disabling attack on the U.S. The proper term would be “on day-to-day alert”. Q3) The US government statement also noted that US forces have evolved away from "rapid reaction high alert levels." Is that the proper term to describe the alert status of some US nuclear weapons systems today? A3) The U.S. nuclear force posture has evolved since the end of the Cold War. Only a small portion of our SSBNs and the 450 Minuteman III ICBMs remain on day-to-day alert. Nuclear capable bombers have been removed from alert status, but could be re-postured in a national crisis and additional SSBNs could be generated to alert status. Q4) Has the US completely stopped this previous practice of "rapid reaction high alert?" A4) See answer 3. Q5) What measures marked this shift? What steps were taken that no longer classifies or makes US weapons as on "rapid reaction high alert?" A5) Under the 1991 Presidential Nuclear Initiatives, all nuclear bombers were removed from alert. Only the Minuteman III ICBM and a small portion of our SSBN force remain on day-to-day alert and neither force is targeted against any country. All 50 Peacekeeper ICBMs, 50 Minutemen III ICBMs, the B-1 Bomber fleet, and four SSBNs have been deactivated or removed from strategic service. Q6) The USG statement further said that "few of the operationally deployed US nuclear forces are maintained on a ready alert status." What is meant by the term few? A6) Only the Minuteman III ICBM force and a small number of SSBNs are on day-to-day alert. Q7) Independent nongovernmental analysts say that regardless of what the alert status is called, the reality is that some US nuclear weapons are capable of being fired in "minutes." Is that assertion accurate? A7) The United States maintains the ability to launch its nuclear weapons in a timely basis as directed by the President. Minuteman III ICBMs are designed to be capable of delivering a rapid response prior to being struck by an adversary’s ballistic missile force. This is an important aspect of our deterrent because it complicates an opponents’ pre-emptive strike planning. However, the fundamental fact is that U.S. forces are postured such that the President is not confronted with a “use or lose” situation in that other strategic forces could be directed to respond to an attack. See answer 1. Q8) In a Nov. 6 paper, nongovernmental analyst Bruce Blair wrote, "the fact remains that the US posture is still geared for firing thousands of weapons with a few minutes." Is that an accurate statement? A8) No, this is not true. Under the Moscow Treaty, the U.S. will have only 1700-2200 operationally deployed nuclear weapons. The U.S. is well on its way to achieving this limit. Only a portion of these are on day-to-day alert. Q9) Now that the Soviet Union is gone and the United States says Russia is no longer an enemy, why is it necessary for the US to keep some of its forces on alert for possible launch in minutes? A9) The security environment of the 21st century is dramatically different from the East-West rivalry of the Cold War era, but the goals of U.S. security policy remain much the same: **to strengthen deterrence and limit risks that could result in serious -even catastrophic- damage to the United States, its allies, and friends**. **Nuclear capabilities continue to play an important role by providing options to deter a wide range of threats, including the use of WMD by a variety of adversaries**. **These capabilities also contribute to our non-proliferation goals by assuring allies and friends that the U.S. will be able to fulfill its security commitments, thereby negating any need to develop their own nuclear weapons.**