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#### 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.

### T

#### The aff is not topical --- introducing armed forces only refers to human troops, not weapons systems such as nuclear weapons --- vote neg and prefer our interpretation because it’s based on textual analysis, legislative history, and intent of the WPR

Lorber 13 – Eric Lorber, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. January 2013, "Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?" University of Pennsylvania Journal of Contsitutional Law, 15 U. Pa. J. Const. L. 961, lexis nexis

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** W**ar** P**owers** R**esolution 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.

### T

#### Treaties aren’t topical – they aren’t a war power of the president and require independent congressional oversight

Niksch 94 (Larry A., Specialist in Asain Affairs, Foreign Affairs and National Defense Division, Congressional REsearch Service, "Congressional Research Service: Report for Congress, No 94-300, April 1, 1994)

The War Powers resolution of 1973 made clear that U.S. defense¶ treaties did not constitute specific congressional authorization¶ for introducing forces into hostilities. Nevertheless, the War¶ Powers Resolution lists "a national emergency created by an¶ attack upon the United States, its territories or possessions, or¶ its armed forces" as the only situations in which the President¶ would exercise his power as commander-in-chief to introduce U.S.¶ forces into hostilities without a declaration of war or specific¶ congressional authorization. This would appear relevant to the¶ "trip wire" deployment in South Korea where U.S. forces are¶ stationed just south of the demilitarized zone separating North¶ Korea and South Korea and likely would be immediately under¶ attack if North Korea invaded South Korea.

#### Limits – defense treaty affs blow the lid off of the resolution – makes any case to abandon an ally topical. Substantially increases the number of affs on an already huge topic

#### B. Ground – means they’ll always get more specific link turns to the war- fighting DA and executive counter-plan because they can make their arguments specific to the particular ally they defend.

#### c. specifically, THIS treaty is extra-topical --- treaty includes CBMs and anti-cooperation measures ---- that’s a voting issue

**PPWT ’08** [Text of the bill, file:///D:/userdata/Downloads/PPWT.pdf]

Article II ¶ The States Parties undertake not to place in orbit around the Earth any objects carrying any ¶ kinds of weapons, not to install such weapons on celestial bodies and not to place such weapons ¶ in outer space in any other manner; not to resort to the threat or use of force against outer space ¶ objects; and not to assist or induce other States, groups of States or international organizations to ¶ participate in activities prohibited by this Treaty. ¶ Article III ¶ Each State Party shall take all necessary measures to prevent any activity prohibited by this ¶ Treaty on its territory or in any other place under its jurisdiction or control. ¶ Article IV ¶ Nothing in this Treaty may be interpreted as impeding the exercise by the States Parties of ¶ their right to explore and use outer space for peaceful purposes in accordance with international ¶ law, including the Charter of the United Nations and the Outer Space Treaty. ¶ Article V ¶ Nothing in this Treaty may be interpreted as impeding the exercise by the States Parties of ¶ their right of self-defence in accordance with Article 51 of the Charter of the United Nations. ¶ Article VI ¶ With a view to promoting confidence in compliance with the provisions of the Treaty and ¶ ensuring transparency and confidence-building in outer space activities, the States Parties shall implement agreed confidence-building measures on a voluntary basis, unless agreed otherwise. ¶ Measures to verify compliance with the Treaty may form the subject of an additional ¶ protocol.

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The United States federal government should statutorily restrict the President’s authority to introduce armed forces into outer space with the Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects.

#### The President of the United States should request his Counsel and the Office of Legal Counsel for coordination over his war powers authority on introducing armed forces. The President should sign an executive agreement that binds his authority to introduce armed forces with the Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects

#### plan would uniquely decimate Obama and the military’s ability to calm alliances and deter enemies --- Makes terrorism and global nuclear war more likely and independently triggers Korean war

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

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

#### Korean war goes nuclear

STRATFOR ‘10 (International Think Tank, “North Korea, South Korea: The Military Balance on the Peninsula,” http://www.stratfor.com/analysis/20100526\_north\_korea\_south\_korea\_military\_balance\_peninsula, May 26, 2010)

So the real issue is the potential for escalation — or an accident that could precipitate escalation — that would be beyond the control of Pyongyang or Seoul. With both sides on high alert, both adhering to their own national (and contradictory) definitions of where disputed boundaries lie and with rules of engagement loosened, the potential for sudden and rapid escalation is quite real. Indeed, North Korea’s navy, though sizable on paper, is largely a hollow shell of old, laid-up vessels. What remains are small fast attack craft and submarines — mostly Sang-O “Shark” class boats and midget submersibles. These vessels are best employed in the cluttered littoral environment to bring asymmetric tactics to bear — not unlike those Iran has prepared for use in the Strait of Hormuz. These kinds of vessels and tactics — including, especially, the deployment of naval mines — are poorly controlled when dispersed in a crisis and are often impossible to recall. For nearly 40 years, tensions on the Korean Peninsula were managed within the context of the wider Cold War. During that time it was feared that a second Korean War could all too easily escalate into and a thermonuclear World War III, so both Pyongyang and Seoul were being heavily managed from their respective corners. In fact, USFK was long designed to ensure that South Korea could not independently provoke that war and drag the Americans into it, which for much of the Cold War period was of far greater concern to Washington than North Korea attacking southward. Today, those constraints no longer exist. There are certainly still constraints — neither the United States nor China wants war on the peninsula. But current tensions are quickly escalating to a level unprecedented in the post-Cold War period, and the constraints that do exist have never been tested in the way they might be if the situation escalates much further.

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#### US influence trades off with China’s soft power- competing narratives

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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.”

#### Chinese soft power restrains aggression- solves regional stability

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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

#### This is an external nuclear war impact from the 1AC 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.

### 1nc

#### Text: The United States federal government should statutorily restrict the President’s authority to introduce armed forces into outer space with the Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects except in the case of nuclear weapons used for asteroid defense strategies. The United States should publicly clarify this as official policy.

#### Nukes solve asteroids and has global cooperation,

**Birch ’13** [Douglas Birch, Pulitzer Prize finalist and veteran foreign correspondent, was a Knight science journalism fellow at MIT, served as the Moscow bureau chief for the Associated Press and spent 22 years at the Baltimore Sun, was the AP’s diplomatic and military editor in Washington, “The Plans to Use Nuclear Weapons to Blow Up Incoming Asteroids,” Oct. 16, http://www.theatlantic.com/technology/archive/2013/10/the-plans-to-use-nuclear-weapons-to-blow-up-incoming-asteroids/280593/]

When planetary scientist H. Jay Melosh attended a meeting between nuclear weapons designers from the United States and the former Soviet Union in May 1995, he was surprised by how eagerly the ex-Cold Warriors sought to work together against an unlikely but dangerous extraterrestrial threat: asteroids on a collision course with Earth. ¶ After Edward Teller, father of the American hydrogen bomb, urged others in the session at Lawrence Livermore National Laboratory to consider building and orbiting large, new, nuclear weapons for planetary protection, some top Russian weaponeers in attendance voiced their support. ¶ “It was a really bizarre thing to see that these weapons designers were willing to work together—to build the biggest bombs ever,” said Melosh, a geophysicist at Purdue University and expert in space impacts who has an asteroid named after him. ¶ Ever since, he has been pushing back against relying on nuclear bombs for the Earth’s defense, arguing that a non-nuclear solution—diverting the trajectory of asteroids by hitting them with battering rams — is both possible and much less dangerous. ¶ But Melosh’s campaign suffered a setback last month when the Obama Administration’s new Energy Secretary, Ernest Moniz, signed an agreement with the Russians that the Americans said could open the door to new collaboration between nuclear weapons scientists on asteroid defense. The topic has been particularly interesting to the Russians since an asteroid the size of a tour-bus exploded high in the skies of Russia’s Chelyabinsk region last February. ¶ President Barack Obama has committed the United States to seeking a world without nuclear weapons, pushed for joint reductions in the U.S. and Russian nuclear arsenals and sought tighter security for nuclear explosives worldwide. “When we fail to pursue peace, then it stays forever beyond our grasp,” Obama said during his landmark speech in Prague in April 2009. ¶ But in recent years, advocates of the use of nuclear weapons to counter space threats have been gaining ground. NASA is spending hundreds of thousands of dollars a year to study the idea, and the U.S. nuclear weapons laboratories are itching to work with the Russians on it. Moreover, weaponeers in both countries are citing the asteroid threat as a reason to hold onto—or to build—very large yield nuclear explosives, which have little terrestrial justification. ¶ There are a few impediments, such as the 1967 Outer Space Treaty signed by 129 countries, which prohibits deploying nuclear weapons in space, and other international treaties that bar nuclear weapons testing anywhere, including in space. Many planetary scientists are leery of the idea and some experts worry that radioactive debris from such a nuclear explosion could itself wreak havoc on Earth. ¶ Outside the world of weaponeers, the idea can evoke humor, as exemplified by the kitschy 1998 Bruce Willis action film “Armageddon,” which shows a team of deep-sea oil drillers landing on an Earth-bound asteroid to implant a nuclear warhead that, at the last moment, separates the rock into neat halves that just miss Earth. Film critic Kenneth Turan called it “sporadically watchable.” ¶ But in real life, Bong Wie, the director of Iowa State University’s Asteroid Deflection Research Center, has a three-year, $600,000 grant from the National Aeronautics and Space Administration to design a “hypervelocity nuclear interceptor system,” basically an missile-borne, nuclear explosive fitted with a battering ram. The ram would separate from the bomb before impact, gouging a crater in the asteroid so the bomb could then blast it apart. ¶ Wie’s plan is hardly Teller’s grand vision of a space-based nuclear asteroid shield. He proposes using off-the-shelf land-based missiles and explosive warheads currently in the U.S. stockpile to intercept large, city-shattering asteroids that are less than about 10 years from slamming into the Earth, when time is too short to nudge them into a new orbit. ¶ These Earth-defending missiles, he said in an interview, could be launched years in advance or even on short warning, although a later defense increases the likelihood that large chunks of radioactive debris will rain onto the planet’s surface. Wie argues that, even in this case, smaller pieces would burn up in the atmosphere and strikes by the remaining rocks would be less damaging than a direct hit by an intact asteroid. ¶ The next logical step, Wie says, would be to test his plan by launching a missile and dummy warhead to strike an asteroid, at a cost of around $500 million, to see if his two-stage design could work. But so far this is just a concept. ¶ Enthusiasm at the nuclear weapons labs¶ Robert Weaver, a research scientist at Los Alamos National Laboratory where U.S. nuclear weapons are designed, is also among those who have studied the effects of such detonations on asteroids. He used the Energy Department’s “Cielo” supercomputer—which the lab calls its “frontline” computer for simulating nuclear effects. ¶ In a video that the laboratory posted on YouTube in 2012 , Weaver says his objective has been to understand how an “energy source of this magnitude”—his euphemism for a nuclear weapon—could “really disrupt this asteroid and prevent the hazard to the entire Earth.” ¶ Los Alamos spokesman Fred DeSousa said that Weaver could not discuss his work, and the lab could not provide details of his funding, due to the government shutdown. Another source at the laboratory said a handful of other scientists have also worked part-time in recent years on the problem of Earth-crossing asteroids, including research physicist Cathy Plesko, who has also used computers to model asteroid blasting. ¶ Keith Holsapple, an engineering professor at the University of Washington, said NASA has given him a five-year, $1.25 million research grant to study whether **an impact device or a nuclear explosion** could deflect an Earth-bound asteroid from its path. He and others say studies have shown these **are the only two approaches that could work**. ¶ Holsapple says he is using a device called a gas gun at NASA’s Ames Research Center in California to study the impactor, while separately producing computer simulations of a nuclear blast, employing software originally developed for the nation’s weapons program. ¶ “When we first started looking at this about a dozen years ago, very early on, the nuclear option was the one that everyone said, ‘Hey, we can do this,’” Holsapple said in an interview. “But that was politically incorrect, so there was a lot of hesitation for anyone to say that this is a solution.” ¶ The leading proponent of the nuclear solution is David S.P. Dearborn, a research physicist and nuclear weapons designer at Lawrence Livermore National Laboratory in California, presently engaged in refurbishment of the U.S. W-87 warhead—a weapon with an explosive force estimated at more than 375 kilotons, or 29 times the power of the bomb that flattened Hiroshima(it has about a third of the explosive power of the largest bomb in the U.S. arsenal). ¶ Wie called Dearborn “the sort of senior person in this community” of those studying the nuclear option. “I am just following in his footsteps.” Melosh said Dearborn “is reasonable, he tends to be pretty persuasive, he comes across as not being a rabid advocate of nuclear weapons for their own sake. He’s quietly persistent.” Dearborn said he was inspired to study the nuclear option a decade or so ago when he heard other researchers tell the media that nuclear weapons wouldn’t work against asteroids. “That’s just not true,” he said in an interview, saying he was offended by their “indefensible” claims.

#### Extinction is highly probable

**Easterbrook ‘08** [Gregg, veteran award-winning writer with focus in space and environmental policy, Investigative Reporters and Editors Award, Livingston Award, Honorary doctorate, Colorado College, Fiftieth Anniversary Distinguished Fellow, Fulbright Foundation, MA in journalism from Northwestern University, BA in political science from Colorado College, “The Sky Is Falling,” <http://www.theatlantic.com/doc/200806/asteroids>]

These standard assumptions—that remaining space rocks are few, and that encounters with planets were mainly confined to the past—**are being upended**. On March 18, 2004, for instance, a 30-meter asteroid designated 2004 FH—a hunk potentially large enough to obliterate a city—**shot past Earth**, not far above the orbit occupied by telecommunications satellites. (Enter “2004 FH” in the search box at Wikipedia and you can watch film of that asteroid passing through the night sky.) Looking at the broader picture, in 1992 the astronomers David Jewitt, of the University of Hawaii, and Jane Luu, of the **M**assachusetts **I**nstitute of **T**echnology, discovered the Kuiper Belt, a region of asteroids and comets that starts near the orbit of Neptune and extends for immense distances outward. At least 1,000 objects big enough to be seen from Earth have already been located there. **These objects are 100 kilometers across or larger,** much bigger than whatever dispatched the dinosaurs; **space rocks this size are referred to as “planet killers”** because their impact **would likely end life on Earth.** Investigation of the Kuiper Belt has just begun, but there appear to be substantially more asteroids in this region than in the asteroid belt, which may need a new name.

### 1NC

#### Dems will hold the Senate- women voters key

Todd, 3-22 -- NBC News' chief White House correspondent and political director

[Chuck, and Mark Murray, "Obama Courts Women Voters," 3-22-14, www.nbcnews.com/politics/first-read/first-thoughts-obama-courts-women-voters-n57551, accessed 3-28-14]

If Democrats are able to hold the Senate in November, it will largely be due to one force in American politics: women voters. In our mind, women -- especially those 40 to 64 -- are the most important swing voters this election season, and it explains President Obama's speech today in Orlando, FL at 2:30 pm ET. “President Barack Obama is arguing that women need better educational opportunities as he raises political money in Florida,” the AP says. “Obama has been focusing on women's economic issues in this midterm election year and plans to focus on higher education in a visit Thursday to Orlando's Valencia College.” It also explains why Democrats, even in the red state of Texas, are trying to capitalize on GOP opposition to the Lilly Ledbetter Act. Our most recent NBC/WSJ poll showed that while Republicans have a one-point lead on the congressional generic ballot (44%-43%), **they’re trailing among women by 11 points** (48%-37%) -- the same margin by which they lost women in the 2012 presidential race (55%-44%). However, Republicans have a 14-point edge among men (52%-38%). But if Republicans are losing female voters by double digits in November, **Dem**ocrat**s** **have a** pretty **good shot at** minimizing big losses in the midterms. There’s not a Democratic campaign in the country that doesn’t view women as the single-most important voting bloc in their elections. This is one of the few ways the White House thinks they can be helpful to Democrats, by focusing all their non-foreign policy efforts on initiatives that are focused on these key swing voters. After his speech in Orlando, Obama heads to Miami to raise money for the DNC and DCCC.

#### Plan dooms incumbents- casts them as soft on terror

Werner, 7 -- University of Wisconsin-Madison political science professor

[Timothy, Ph.D. in Political Science from University of Wisconsin–Madison and Peter Holm, UWM political science, "Political Capital and Presidential War Powers: Sources of Congressional Assertiveness on the Use of Force," March 2007, users.polisci.wisc.edu/Holm/uof-march2007-draft.pdf, accessed 2-5-14]

At the same time, the pressures on members to support the president in his foreign policy actions, especially when it involves the use of force, are strong. Challenging the president in foreign policy is always a risky endeavor in which Congress typically suffers from acute informational asymmetry and members do not want to be caught on the wrong end of a successful n\ilitary endeavor (Schlesinger 1989; Blech- man 1990). The temptation to remain on the sidelines is high; as Rep. Ron Paul [R-TX) put it, "Congress would rather give up its most important authorized power to the President and the UN than risk losing an election if the war goes badly" (Rudalevige 2005, 276). Further, most members are loathe to undercut the president and cripple the country's image of resolve abroad when he escalates a crisis situation. As Senator Arthur Vandenberg [R-Ml) noted after the famous Truman Doctrine speech requesting an aid commitment to Greece and Turkey in 1947, refusing the president would mean "there would never be another opportunity for us pacifically to impress the next aggressor with any degree of success (Johnson 2006, 20). U.S. involvement in an international crisis is also likely to bring with it some public rally to the president's side [Mueller 1973; Brody and Shapiro 1989; Parker 1995; Baum 2002). For individual members, the potential consequences of being cast as "soft" [whether on communism, terrorism, or defense issues in general) are extremely high, as incumbents like Emest Gruening [D-AK), Wayne Morse [D-OR), lohn Brademas (D-IN), and Max Cleland (D-GA) discovered in their **unsuccessful re-election** campaign**s** (Iohnson 2006). And once the president deploys troops, Congress’s only real recourse for re- moving them is to cut off funding but the taboo against withdrawing support from troops in the field remains intense.

#### Crushes dems with women- security overrides

Hurlburt, 12 -- National Security Network executive director

[Heather, "Watch the Foreign Policy Gender Gap," US News & World Report, 10-22-12, www.usnews.com/opinion/blogs/world-report/2012/10/22/dont-assume-women-dont-care-about-national-security, accessed 3-29-14]

Watch the Foreign Policy Gender Gap

Campaigns and the media are dropping women back into binders to focus on **foreign policy,** disregarding the fact that it **is an important issue for female voters**. What a difference a week makes. Last week, national news outlets were falling over each other to declare women the decisive factor in this nail-biter of a presidential campaign. Former Gov. Mitt Romney gave us the newly-immortal "binders full of women" line to describe his concern for women's issues; it has already spawned follow-up ads from both campaigns as well as enough Internet humor to knock a half-percentage point off our national economic productivity. As Monday's foreign policy debate approaches, however, commentators, media, and campaigns are dropping women back into our binders to focus on serious matters such as the exact wording of CIA talking points. (Since when does the CIA get to write the talking points, anyway? Not in my day…) No doubt they think that women, still worrying about abortion, jobs for our menfolk, and healthcare for our children, won't be paying attention—since, in the words of American University's Robert Durant, women arrive to elections "midway through the third act, look around, and decide who the heroes and villains are." This just might be a mistake. Why? Because, **it turns out, women are** more concerned **about** **international issues—and more likely to say those issues will affect their votes**—than men. In fact, that same USA Today/Gallup survey that showed Romney closing the gender gap last week ranked international issues number 2 out of 5 for women—something that might surprise all those (male) pundits who have asserted again and again that this isn't a national security election.

#### Holding the Senate is key to progressive nominations

Kutner, 13 -- American Prospect co-editor

[Robert, Distinguished Senior Fellow at the think tank Demos, "Filibuster Reform: The Stakes for 2014," Huffington Post, 11-24-13, www.huffingtonpost.com/robert-kuttner/filibuster-reform\_b\_4334511.html, accessed 2-9-14]

The Senate Democrats' long-deferred success in reforming the filibuster rule for executive branch and judicial appointments will have reverberations that are only gradually being appreciated. Not only will 76 long-blocked appointments -- a record -- now go forward in short order. Obama, if he chooses, will be able to appoint more robust progressives. In the past, especially on court appointments, prospective Obama nominees were pre-cleared with Republicans to make confirmation more likely. The result of this White House strategy was not only to slow the process of nominations but to place a premium in coming up with centrists rather than liberals. The liberals who did get nominated typically faced a Republican buzz-saw. One was Goodwin Liu, now a justice of the California Supreme Court. Obama nominated him to the 9th Circuit in February 2010. The nomination was blocked until May 2011, when Goodwin withdrew in order to get on with his life. And the list of blocked appointees includes not just federal judges but appointees to other key jobs requiring Senate confirmation. Some stellar people who were blocked by filibusters might now be re-nominated. For instance, the Federal Reserve will soon have four or five vacancies. Janet Yellen, the new chair and the rare liberal to head the central bank, could be very lonely unless she gets some like-minded colleagues. Fear of a Republican filibuster might have inclined the White House to send up centrist Fed nominees, who would put the new chairwoman in a minority. Now, if he so chooses, Obama can appoint other liberals. One is MIT economist Peter Diamond, a Nobel Laureate who was blocked for a seat on the Fed in 2011 because Republican senator Richard Shelby of Alabama thought he cared too much about unemployment and not enough about inflation (just like Yellen.) How about naming Diamond to one of the new open seats? The limitation of the filibuster threat will also make it easier to recruit good people to executive and judicial appointments (quite apart from ideology) because prospective nominees will no longer have to put their lives on hold for a year or move while Republicans block. One of the best pieces of news in the filibuster story was the report that President Obama personally got into the act, working the phones to help enlist the last few Democratic votes for reform. This may bode well for more hands-on leadership by a president whose trademark has been reticence. Especially courageous were the senators who voted to change the rule despite being up for re-election next year in swing states. Mark Prior, who faces a difficult election next year in Arkansas voted no. But Mary Landrieu (LA), Kay Hagan (NC), and Mark Begich (AK) all voted yes, as did freshman Jeff Merkley of Oregon who won in 2008 only by three points, but who led the reform effort. This nervy move by Democrats raises the stakes for 2014. **If Republicans retake the Senate, they will be in a mood for payback** and then some. Though Democrats and their independent allies hold 55 Senate seats, several veteran Democrats in red or purple states are retiring, and several freshmen who won narrowly will be defending seats in swing states.

#### Progressive appointments key to solve warming

Kendall, 13 -- Constitutional Accountability Center president

[Doug, and Simon Lazarus, CAC senior fellow, "Broken Circuit: Obstructionism in the Environment’s Most Important Court," The Environmental Forum, 30.3, May/Jun 2013, theusconstitution.org/sites/default/files/briefs/The\_Environmental\_Forum\_Clip\_Broken\_Circuit.pdf, accessed 2-9-14]

The decades-long struggle for meaningful action to address the threat of global warming has been met mainly with stinging setbacks, except for one very bright day: April 2, 2007. That's the date that the Supreme Court de- cided Massachusetts u EPA and held that the agency has the authority under the Clean Air Act to address climate pollution \_ a rebuke to the environmentally challenged George W Bush presidency The Clean Air Act has become the great source of hope for environmentalists looking for action during the ensuing ad- ministration because of the gridlock on Capitol Hill. When President Obama said in his recent State of the Union speech that "if Congress won't act soon to pro- tect future generations, I will,” what he meant mainly is that he will move under the Clean Air Act. And not only will he; he already has. Environmental advocates need only to look at the vote in Massachusetts v EPA \_ 5-4 along ideological lines, with justice Anthony Kennedy siding with the Court's liberal wing \_ to know just how tied up the movement's future is with the future of the judiciary Coupled with the less happy results in Bush v Gore, delivering the presidency to a staunch environmental foe, and Citizens United u FEC; allowing corporate polluters to spend umlimited stuns electing the anti- environmental candidates of their choice, Massachusetts v EPA is a reminder that some of Washington's most important environmental decision-makers wear black robes. And its not just the deciders on the Supreme Court who matter. Tucked into a non-descript neighborhood down Capitol Hill lies the E. Barrett Prettyman Court- house, the home of the U.S. Court of Appeals for the D.C. Circuit. Widely viewed as the second most important court in the United States, the D.C. Circuit has particular significance for the environmental movement because of its exclusive jurisdiction to hear challenges to national regulations promulgated under several major environmental statutes, including nota- bly the Clean Air Act. That means the Obama administration's effort to use the act to address global warming runs though the D.C. Circuit. This should not be a comforting realization. Successive Republican administrations have de- voted enormous efforts to win confirmation of highly ideological judges to this critical bench, culminating with the success of President George W Bush in secur- ing four confirmations, including two, judges Janice Rogers Brown and Brett Kavanaugh, who have suc- ceeded in the difiicult task of finding ideological space to the right of Reagan-era conservatives such as ]udges Laurence Silberman, Douglas Ginsburg, and even, on occasion, David Sentelle. For example, Kavanaugh recently penned a 2-1 majority opinion overturning EP/Ys Cross-State Air Pollution Rule, over a decade in the making, which constrained individual states' con- tribution to air pollution levels in neighboring dovm- wind states. Commenting on this ruling in October 2012, Steven Pearlstein, a Pulitzer prize-winning eco- nomic and business columnist, opined that "dysfunc- tional govermnent has become the strategic goal ofthe radical fringe [on the political right] .... Nowhere has this strategy been pursued with more fervor, or more success, than the U.S. CotuÂ°t of Appeals for the District of Columbia Circuit, where a new breed of activist judges are waging a determined and largely successful war on federal regulatory agencies." The result is a court which, on any given day has the potential to release opinions that throw the environmental movement and even the regulatory state itself into serious disarray Witness the decision that provoked columnist Pearl- stein's outing of the circuit's "judicial jihad against the regulatory state," nullifying EPNs effort \_ 40 years after the passage ofthe Clean Air Act \_ to finally get upwind states to reduce pollution that is causing many thou- sands of premature deaths in downwind states. Consider also its january 2013 opin- ion on recess appointments, a ruling that threatens to effectively shutter both the decades-old National Labor Relations Board and the brand new Consmner Fi- nancial Protection Bureau, and, indeed, proclaims un- lawful the long-established practice of recess appoint- ments that has proven essential to keep government functioning since the earliest days ofthe republic. The good news is that, so far, efforts to combat global warming pollution have survived this judicial gauntlet. In an important ruling this past summer, a panel on the D.C. Circuit upheld important initial steps by the Obama administration that set the foun- dation for regulating major new stationary sources of emissions, finding these rules plainly consistent with the text ofthe Clean Air Act and the Supreme Cotu"˜t's ruling in Massachusetts u EP/1. While Kavanaugh and Brown wrote extended opinions urging the court to re- view this decision en bane, the full court denied revievxg preserving EPNs victory unless and until the Supreme Court decides that it wants to weigh in on this critical subject. **But the stiffest tests are yet to come**, as the agency begins this year to release regulations actually setting limits on climate pollution, beginning with new power plants and refineries. The industrial opponents of climate action will spare no resources in fighting these impending regulations in court. A wild card \_ quite likely a trump card too \_ in the outcome of these fights **is the makeup of the D.C. Circuit** itself: Pacing four vacancies on the l1-mem- ber court, President Obama has the opportunity to restore balance to this critical tribunal. But he must get these picks through a Senate that has already indicated a willingness to block just about any judge Obama nominates. The success of the EPAs efforts to address global warming may therefore depend on the administra- tions success in winning two races against the clock unfolding at the same time. The administration must act quickly in promulgating emission limits in order to get these limits out and into effect during the course of its second term. At the same time, it must push hard for confirmations to the dwindling D.C. Circuit bench to improve the chances that these rules will be upheld, rather than gutted, when up for review Only if the ad- ministration wins both races can Obama be even reason- ably confident that when he says he will act to protect future generations, those efforts will actually come to fruition. The earth may hang in the balance.

#### Warming is anthropogenic and causes extinction

DEIBEL ‘7 (Terry L. Deibel, professor of IR at National War College, Foreign Affairs Strategy, “Conclusion: American Foreign Affairs Strategy Today Anthropogenic – caused by CO2”)

Finally, there is one major existential threat to American security (as well as prosperity) of a nonviolent nature, which, though far in the future, demands urgent action. It is the threat of global warming to the stability of the climate upon which all earthly life depends. Scientists worldwide have been observing the gathering of this threat for three decades now, **and what was once a mere possibility has passed** through probability **to near certainty.** Indeed **not one of more than 900 articles** **on climate change published in refereed scientific journals** from 1993 to 2003 doubted that anthropogenic warming is occurring. “In legitimate scientific circles,” writes Elizabeth Kolbert, “it is virtually **impossible to find evidence of disagreement** over the fundamentals of global warming.” Evidence from a vast international scientific monitoring effort accumulates almost weekly, as this sample of newspaper reports shows: an international panel predicts “brutal droughts, floods and violent storms across the planet over the next century”; climate change could “literally alter ocean currents, wipe away huge portions of Alpine Snowcaps and aid the spread of cholera and malaria”; “glaciers in the Antarctic and in Greenland are melting much faster than expected, and…worldwide, plants are blooming several days earlier than a decade ago”; “rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes”; “NASA scientists have concluded from direct temperature measurements that 2005 was the hottest year on record, with 1998 a close second”; “Earth’s warming climate is estimated to contribute to more than 150,000 deaths and 5 million illnesses each year” as disease spreads; “widespread bleaching from Texas to Trinidad…killed broad swaths of corals” due to a 2-degree rise in sea temperatures. “The world is slowly disintegrating,” concluded Inuit hunter Noah Metuq, who lives 30 miles from the Arctic Circle. “They call it climate change…but we just call it breaking up.” From the founding of the first cities some 6,000 years ago until the beginning of the industrial revolution, carbon dioxide levels in the atmosphere remained relatively constant at about 280 parts per million (ppm). At present they are accelerating toward 400 ppm, and by 2050 they will reach 500 ppm, about double pre-industrial levels. Unfortunately, atmospheric CO2 lasts about a century, so there is no way immediately to reduce levels, only to slow their increase, we are thus in for significant global warming; the only debate is how much and how serous the effects will be. As the newspaper stories quoted above show, we are already experiencing the effects of 1-2 degree warming in more violent storms, spread of disease, mass die offs of plants and animals, species extinction, and threatened inundation of low-lying countries like the Pacific nation of Kiribati and the Netherlands at a warming of 5 degrees or less the Greenland and West Antarctic ice sheets could disintegrate, leading to a sea level of rise of 20 feet that would cover North Carolina’s outer banks, swamp the southern third of Florida, and inundate Manhattan up to the middle of Greenwich Village. Another catastrophic effect would be the collapse of the Atlantic thermohaline circulation that keeps the winter weather in Europe far warmer than its latitude would otherwise allow. Economist William Cline once estimated the damage to the United States alone from moderate levels of warming at 1-6 percent of GDP annually; severe warming could cost 13-26 percent of GDP. But the most frightening scenario is runaway greenhouse warming, based on positive feedback from the buildup of water vapor in the atmosphere that is both caused by and causes hotter surface temperatures. Past ice age transitions, associated with only 5-10 degree changes in average global temperatures, took place in just decades, even though no one was then pouring ever-increasing amounts of carbon into the atmosphere. Faced with this specter, the best one can conclude is that “humankind’s continuing enhancement of the natural greenhouse effect is akin to playing Russian roulette with the earth’s climate and humanity’s life support system. At worst, says physics professor Marty Hoffert of New York University, “we’re just going to burn everything up; we’re going to het the atmosphere to the temperature it was in the Cretaceous when there were crocodiles at the poles, and then everything will collapse.” During the Cold War, astronomer Carl Sagan popularized a theory of nuclear winter to describe how a thermonuclear war between the Untied States and the Soviet Union would not only destroy both countries but possible end life on this planet. **Global warming is the post-Cold War era’s equivalent of nuclear winter at least as serious and considerably better supported scientifically**. Over the long run it puts dangers form terrorism and traditional military challenges to **shame**. It is a threat not only to the security and prosperity to the United States, but potentially to the continued existence of life on this planet.

### Solvency

#### Covert means he’l circumvent

**Lohmann 1-28**-13 [Julia, director of the Harvard Law National Security Research Committee, BA in political science from the University of California, Berkeley, “Distinguishing CIA-Led from Military-Led Targeted Killings,” <http://www.lawfareblog.com/wiki/the-lawfare-wiki-document-library/targeted-killing/effects-of-particular-tactic-on-issues-related-to-targeted-killings/>]

The CAS mandates that the President inform the Senate and House Intelligence Committees of all covert actions, and turn over any U.S. government materials that those committees request. Id. § 413b(b). In general, the President must report any covert action to the Intelligence Committees as soon as possible after it is approved, before the action begins. However, in “extraordinary circumstances affecting vital interests of the United States,” the President may choose to inform only the members of the “Gang of Eight”—comprised of the chairmen and ranking minority members of each of the Intelligence Committees, as well as the Speaker and minority leader of the House and the majority and minority leaders of the Senate—rather than the full committees. Id. § 413b(c). In the event that the President decides to use this “extraordinary” route, he or she must provide written justification for limiting disclosure to the Gang of Eight. Id. § 413b(c).¶ The CAS thus seems to give Congress a significant oversight role in the CIA’s targeted killing decisionmaking process. But in reality, Congress arguably has far less power to influence covert actions than one might at first think. For example, L. Britt Snider highlights that, although the congressional committees may serve in an advisory capacity to the President, they cannot veto covert actions. And, while one might argue that Congress can control targeted killings through its power of the purse, Snider counters that Congress’s influence via appropriations is limited, as the President can use the Contingency Reserve Fund to carry out covert actions without explicit congressional approval.

#### Full ratification key- other treaties prove it’s how debates go down

**UN General Assembly ’10** [“RULE OF LAW NOT RULE OF POWER NEEDED TO TACKLE DISARMAMENT CHALLENGES,” http://www.un.org/News/Press/docs/2010/gadis3408.doc.htm]

The rule of law and not the rule of power should be promoted in dealing with issues related to disarmament and international security, and exclusive and discriminatory approaches should be avoided, the First Committee (Disarmament and International Security) heard today as it continued its annual general debate. Iran’s representative also underscored the need to ensure the universality of the three major instruments on weapons of mass destruction, in particular the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). If that Treaty was to continue to promote international peace and security, then the nuclear-weapon States should prove that they were serious about their obligations. Similarly, he said, if the new Treaty on the Reduction and Limitation of Strategic Offensive Arms (START) was ratified and fully implemented, it could be a positive step for disarmament. If not, then the act and the rhetoric surrounding it would jeopardize the NPT’s relevance and credibility. The inalienable right to peaceful uses of nuclear energy and technology, including to the fuel cycle, was one of the basic foundations of the NPT, he said. And Iran, in order to meet its growing energy needs, was determined to exercise that right. In so doing, it took its responsibilities seriously, and its commitment to non-proliferation remained intact. Several delegations today worried that disarmament and non-proliferation treaties would remain toothless without full ratification and strict adherence. For all the decades-long efforts towards banning nuclear weapon testing, they warned, the Comprehensive Nuclear-Test-Ban Treaty (CTBT) had not yet gotten its milk teeth, as it lacked signatures required to enter into force. Viet Nam’s delegation said that years after the cold war had ended, the world was still threatened by 20,000 nuclear bombs.

## Adv 1

### A2 space mil

#### Zero risk of the case debate- space is not isolated from conventional and economic deterrence

Hagt ‘8 (Eric Hagt is the director of the China Program at the World Security Institute and is editor of China Security, “Mirror-imaging and Worst-case Scenarios”, 26 February 2008, LEQ)

Tellis uses a number of examples of American–Soviet competition to support his thesis that China will inevitably seek to confront US military dominance. Meanwhile, he declines to entertain the notion that China’s incentives and actions vis-à-vis the United States may be shaped by strategic values and interests outside his framework. In fact, China’s strategic considerations toward the United States are influenced and constrained by factors beyond a direct militarily antagonistic relationship. They range from China’s profound domestic development challenges; its precarious geopolitical relations with regional players; and its deep dependence on global commercial and energy markets. China also has a unique set of historical experiences (colonialism, foreign occupation, border wars) as well as the lessons learned from current events, not the least of which is the US quagmire in Iraq. These point to conditions for China and an international environment significantly different than were extant during the Cold War. Even if one assumes that some form of challenge to US hegemony is inevitable, China has a growing kit of tools at its disposal to wield nonmilitary influence. China now has clout in financial, trade and even softpower terms, all of which could bring to bear considerable economic and political pressure on a potential adversary or strategic competitor. This is not to suggest China would forgo its military options in a conflict with the United States. But it should, at the very least, give pause to consider alternative strategic modalities by China. Tellis doesn’t mention any of these, much less figure them into China’s counterspace strategy. Tellis brings that strategy within his broader framework of China’s goals to challenge and rival the United States. China’s best shot at accomplishing these expansive strategic goals, Tellis writes, is to have a ‘riposte against [America’s] Achilles heel’, its space dominance. Tellis overstates both China’s ability and its incentives to use space in a conflict with the United States. He draws the analogy of Cold War competition between the Soviet Union and the United States: ‘neither side had an incentive to attack the other’s space systems, even though both developed modest instruments for this purpose, because the costs to each individually far outweighed the benefits’. The unstated implication is that China does have the incentive to attack America’s disproportionately vulnerable space assets. He is partly right; the United States is arguably now more vulnerable to asymmetric ASAT weapons that China could employ. But concluding that China has the incentive to act on this advantage removes the ‘battle’ of space out of the context of the larger conflict that such a battle would either be a part of, or would most probably escalate to. It wrongly isolates space from the US capabilities that could be brought to bear on a much inferior China in the dynamic of any military conflict. The United States has overwhelming military superiority over China. Besides vastly outnumbering China’s conventional and nuclear forces, other key elements include the dramatic advantage the United States has accrued in the past decade in precision-strike conventional weapons. These may even be capable of taking out even hardened nuclear silos in certain circumstances, thus comprising a new threat to China’s nuclear deterrence.1 There is also the developing US multi-layered missile defence system with boost-phase components based in space that threaten China’s missile force. Even considering space alone, US capabilities and programmes far exceed those of China: for example micro- or nanosatellites, such as the XSS-10, XSS-11, DART, MiTex, Orbital Express and the new DARPA TICS and F6 programmes. There are also laser weapons: MIRACL, the ABL and its COIL, various solid-state HEL and FEL programmes, and the Starfire adaptive optics range, all of which have powerful ASAT capabilities.2 All this means that even if the United States is currently vulnerable in space, China would have little incentive to attack American space assets because the risk of escalation to generalised conflict – a conflict China would have no chance of winning – is far too great, as Tellis admits. Failing to incorporate this into China’s strategic calculus leads to a narrow reading of what China is capable of, to say nothing of what its intentions may be. China’s own investment and interests in commercial and civilian space are also rapidly increasing, serving as a further check on any bellicose use of space. There is, of course, one plausible scenario where China could have incentive to attack US assets in space, despite its military disadvantage: a conflict over Taiwan. Kinetic-energy ASATs or other asymmetric counterspace weapons could very well be used if the United States employed its own space assets in a confrontation over the island. But this would be only in extreme circumstances, an act of desperation or selfpreservation, since China understands such a scenario could very well bring down the full force of US military might on China. The possibility of China making this calculation is far from certain, however, since to avoid escalation (possibly to nuclear exchange) or outright failure, China would need to reduce US military might to a level relative to its own (a formidable task even without space assets). Just diminishing US military dominance will not suffice if America remains powerful enough to prevail in a conflict. China may one day have the counterspace capability to achieve this goal, but one ASAT test does not get it there. For a successful kinetic-energy ASAT capability alone, China would have to conduct more tests, to say nothing of the other capabilities that would need to be devel China has little incentive to attack US space assets oped and deployed to effectively disable US space assets. Furthermore, all this assumes that the United States is indeed highly vulnerable in space, an assumption scarcely borne out by current Chinese ASAT capabilities and inherent redundancy of US space assets.3 This more narrowly defined scope for China’s counterspace capabilities fits within its overall strategic parameters and defined goals. And Tellis’s judgement that the potential conflict in space will ‘likely persist whether or not the Taiwan conflict is resolved’, is entirely possible if the United States and China find new strategic terms to compete over, but that outcome is speculative and is an entirely separate issue from China’s rivaling US space dominance writ large. A note on sources is also in order, since Tellis uses only secondary material to make sweeping assumptions about China’s military and counterspace strategies. The discussion of source material often comes up with the subject of China because of the difficulty in deciphering the vast body of literature, often of questionable reliability and predominantly in Chinese. Tellis remains undaunted, however, and cites secondary Western publications analysing this literature that primarily support his hawkish version of China’s space ambitions while giving scant mention to other more moderate positions. A selection of the provocative statements and ambitions on the American side would present a similarly distorted picture of US policy and intentions

#### Impact of space miscalc and war empirically disproven- Cold War- deterrence checks

Krepon ‘8 (Michael Krepon, Co-founder of Stimson, and director of the South Asia and Space Security programs, “Opening Pandora’s Box”, February 28, 2006, LEQ)

These and other dire warnings of space warfare were highly exaggerated, but they weren’t made up out of thin air. The Soviet Union, like the United States, had the means to seriously damage or destroy satellites. The Kremlin carried out 20 ASAT tests during the Cold War, nine of which were believed to be successful. Each of the nuclear-tipped missile-defence interceptors around Moscow could (and still can) be used as an indiscriminate satellite killer, as could the many hundreds of medium-, intermediate- and intercontinentalrange ballistic missiles possessed by the Soviet Union. The USSR possessed a space-related infrastructure that dwarfs that of China today, including the hit-to-kill (albeit a different method than the one utilised by the PLA), electronic, and directed-energy warfare capabilities that China possesses. Oddly, Tellis asserts that, on the basis of what he describes as three failed and one successful test, ‘Chinese space denial programmes exceed those pursued by Moscow at the height of the Cold War in diversity, depth and comprehensiveness’. This assertion seems rather exaggerated. Joan JohnsonFreese estimates Chinese space spending at between $1.4–2.2bn annually. Tellis even suggests, citing one exegesis of Chinese military doctrine, that Beijing may be seeking space dominance. If so many influential US and Soviet military and strategic analysts subscribed to Tellis’s logic train, why did the superpowers exercise such uncommon restraint in pursuing anti-satellite weapons? Throughout the Cold War, the United States and the USSR tested ASATs a grand total of 53 times. To some, this may seem like a large number, but it pales in comparison to over 1,700 nuclear tests (on average, one per week from the Cuban missile crisis to the fall of the Berlin Wall), and the tens of ballistic missile flight tests conducted annually during these harrowing years. When many hundreds, and then thousands of nuclear weapons were deployed and ready for prompt launch, only a very few, rudimentary ASATs were considered deployed, and only then for brief periods. Tellis, who agrees that the heightened superpower competition did not extend into space, explains this as a natural consequence of a bipolar competition between two states whose huge nuclear arsenals were intimately connected to satellites. To attack satellites upon which both relied for intelligence, targeting, communication, early warning and military-related weather forecasting would invite uncontrolled escalation across the nuclear threshold. For just this reason, and to assist treaty monitoring, Washington and Moscow pledged not to interfere with each other’s ‘national technical means’ of monitoring compliance – agreements that one or both capitals have tossed, or are now threatening to toss, overboard. I agree with the arguments made by Tellis about previous restraint, but would note that bipolarity did not dampen the military competition in other spheres. So there has to be more reasons for the muted Cold War competition in developing, testing, and deploying ASATs than those offered. These reasons are as applicable today and tomorrow as they were yesterday. One reason for previous restraint in developing, testing, and deploying ASATs is that there is widespread public revulsion with carrying human discord into the heavens. This is a deeply instinctual, human response, comparable to the revulsion many people feel against nuclear testing. Military strategists may rail against this constraint, but political leaders have learned – and continue to learn – that it is quite powerful. Another reason for restraint is that satellites continue to be as vulnerable as they are essential. If one major spacefaring nation starts to shoot fish out of this barrel, another could, as well. Dedicated ASATs are not needed for this purpose, since major powers also have broad residual or latent capability to damage or destroy satellites using technologies and military systems such as ballistic missiles, lasers and jammers that have multiple military applications. ASATs designed to ‘hit-to-kill’ their victims in space create mutating debris fields that will kill any space object in their path, without regard to national ownership. One debris fragment for a US kinetic-energy ASAT test in 1985, travelling at approximately ten times the speed of a rifle bullet and conveying the energy of a one-tonne safe falling from a five-storey building, came within one mile of the newly launched international space station, 14 years later. The January 2007 Chinese ASAT test was far worse, since it was carried out at a much higher altitude. In effect, the Chinese government, which supports a treaty banning space weapons, carried out a test that created approximately 40,000 space weapons: debris fragments that pose a lethal hazard to space activities in low Earth orbit, including the Chinese manned space programme. Beijing is capable of tracking only a small fraction of the debris field it created. Professional debris trackers estimate that it will take a century for this lethal cloud to clear out of low Earth orbit. There are 700 spacecraft between the Chinese ASAT debris and its fiery demise in the Earth’s atmosphere. Space is exceedingly vast, so it is possible that no satellites and space flights will suffer catastrophic losses as a result of the Chinese ASAT test, but Beijing’s leadership is smart enough – and its space equities are broad enough and expanding – to have a learned a cautionary lesson from this test. US military guidance calling for space superiority does not foreclose hit-to-kill ASATs, but the Pentagon prefers to use temporary and reversible effects in space warfare. But once this Pandora’s Box is opened, and the first satellite in military history is attacked in combat, not everyone may choose to fight by Marquis of Queensbury rules. Asymmetric warfare applies in space, no less than on the ground. Because every spacefaring nation can lose badly in the event that vulnerable and essential satellites are damaged or destroyed, a rudimentary form of deterrence against satellite warfare existed during the Cold War. It continues to exist today. Deterrence of satellite warfare was far simpler and less expensive than nuclear deterrence because so much latent capability existed to harm satellites. Dedicated ASAT tests weren’t needed; they were kept to a minimum because they were provocative and dangerous. My own view, unlike the one imputed to me by Tellis, is that Beijing was not sending a cri de coeur on behalf of arms control with its ASAT test. Instead, Beijing was sending a deterrence message that, in the event of a crisis over Taiwan, the United States could not count on ‘owning’ space. Will major spacefaring nations again settle for a cheap form of deterrence against satellite warfare, or will they go down the space warfighting path suggested by Tellis? I believe there is reason to be optimistic rather than fatalistic. The more spacefaring nations become invested in satellites for economic growth, global commerce, and military capabilities, the more they will pause before opening Pandora’s Box. The constraints that worked against using satellites as target practice in the past are even stronger today. They will be stronger tomorrow, because dependency on satellites in growing in all spacefaring nations. I rest my case by citing as evidence the behaviour of the George W. Bush administration, which has not been shy about utilising American military superiority and about taking significant risks in pursuit of presumed security interests. Even the Bush administration – and even after the Chinese ASAT test – has refrained from undertaking the offensive ASAT programmes endorsed by Tellis. Notwithstanding existing US Air Force guidance and the Rumsfeld Commission’s recommendations, the Pentagon has so far confined its testing in space to the demonstration of multipurpose technologies that fall far short of dedicated ASATs. The United States, like China and Russia, is pursuing a hedging strategy in the event that the norm against harming satellites in crises or warfare is broken. This analysis suggests breaks in the logic train constructed by Tellis and others who advocate the testing and deployment of offensive counterspace capabilities. To be sure, ASAT programmes are driven by national interest, but national interest also recognises that a shooting war in space can have profoundly negative consequences. Chinese ASAT programmes do, indeed, have military logic, but it is probably incorrect to assume that Chinese space diplomacy serves entirely as a ruse to protect the PLA’s ASAT programmes. The Chinese government has many moving parts, and Beijing’s conspicuous silence after the January 2007 ASAT test suggests that the Foreign Ministry and the PLA tracks were not well coordinated. In all probability, Tellis is correct about PLA briefings to the Chinese leadership before the ASAT test, but it is also probably fair to conclude that the subject of debris did not figure prominently in these briefings. I believe that Tellis is correct in asserting that threats to space assets will grow, but so, too, will global dependency on satellites. In combination, these trend lines can continue to prevent space from becoming a shooting gallery. I happen to agree with Tellis that a treaty banning space weapons would be plagued by problems of definition, scope and verification. I appreciate Tellis’s cautious endorsement of a Code of Conduct for responsible spacefaring nations, an initiative of the Henry L. Stimson Center that has gained endorsement by the European Union and other governments. A Code of Conduct would, however, be greatly vitiated unless participating states agreed to a provision against harmful interference with satellites. When Tellis’s partial truths are complicated by other truths, the inadvisability of running and trying to win an offence–defence arms race in space becomes evident. There is nothing inevitable about the use of force against space objects. If this were the case, attacks on satellites would have already accompanied ground combat and deep crises. If common sense, let alone wisdom, prevails, barriers against attacking satellites can extend into the future as well.

#### CBWs – you don’t have any impact to get to extinction, don’t let the 2AC claim it as independent

### A2 collins/austino

#### All previous human spaceflight is insignificant – long term colonization is still infeasible.

**Launius 10** – (2010, Roger, PhD, Curator, Planetary Exploration Programs, National Air and Space Museum, expert on Aerospace history, fellow and board member of the American Astronautical Society, “Can we colonize the solar system? Human biology and survival in the extreme space environment,” Endeavour Volume 34, Issue 3, September 2010, Pages 122-129, science direct, )

Although microbial life might survive the extreme conditions of space, for Homo sapien sapiens the space environment remains remarkably dangerous to life. One space life scientist, Vadim Rygalov, remarked that ensuring human life during spaceflight was largely about providing the basics of human physiological needs. From the most critical – meaning that its absence would cause immediate death, to the least critical – these include such constants available here on Earth of atmospheric pressure, breathable oxygen, temperature, drinking water, food, gravitational pull on physical systems, radiation mitigation, and others of a less immediate nature. As technologies, and knowledge about them, stand at this time, humans are able to venture into space for short periods of less than a year only by supplying all of these needs either by taking everything with them (oxygen, food, air, etc.) or creating them artificially (pressurized vehicles, centrifugal force to substitute for gravity, etc.).10 Spaceflight would be much easier if humans could go into hibernation during the extremes of spaceflight, as did the Streptococcus mitis bacteria. Resolving these issues has proven difficult but not insurmountable for such basic spaceflight activities as those undertaken during the heroic age of space exploration when the United States and the Soviet Union raced to the Moon. Overcoming the technological hurdles encountered during the Mercury, Gemini, and Apollo programs were child's play in comparison to the threat to human life posed by long duration, deep space missions to such places as Mars. Even the most sophisticated of those, the lunar landings of Project Apollo, were relatively short camping trips on an exceptionally close body in the solar system, and like many camping trips undertaken by Americans the astronauts took with them everything they would need to use while there. This approach will continue to work well until the destination is so far away that resupply from Earth becomes highly problematic if not impossible if the length of time to be gone is so great that resupply proves infeasible. There is no question that the U.S. could return to the Moon in a more dynamic and robust version of Apollo; it could also build a research station there and resupply it from Earth while rotating crews and resupplying from Earth on a regular basis. In this instance, the lunar research station might look something like a more sophisticated and difficult to support version of the Antarctic research stations. A difficult challenge, yes; but certainly it is something that could be accomplished with presently envisioned technologies.11 The real difficulty is that at the point a lunar research station becomes a colony profound changes to the manner in which humans interact with the environment beyond Earth must take place. Countermeasures for core challenges – gravity, radiation, particulates, and ancillary effects – provide serious challenges for humans engaged in space colonization (Figure 4).

And, even if we could go, We couldn’t stay there –Colonies aren’t self sustainable

Woodcock 2001

(Gordon R. Woodcock, Gordon Woodcock has been an important contributor to engineering and studies of space exploration and technology development. He as published ~ 100 books and articles including the books Space Stations & Platforms and Space Exploration: Mission Engineering. Some of Mr.a Woodcock's articles have even made it into popular venues: an article from the late 1970s in Analog magazine was later reprinted in a book by Robert Zubrin, in which he briefly discussed his study of the occultation technique. Earlier, in the mid-1970s, while a study manager on future space transporation systems, his work on analysis and design of an occulting spacecraft was included as part of the contractor report. Articles by Mr. Woodcock can be found in Resources of Near Earth Space and Solar Power Satellites, and New Destinies: The Paperback Magazine, Volume VII / Spring 1989, among others.Woodcock has served on several NASA advisory and review committees throughout the latter decades of the 20th century, "Lack of Affordable Transportation of Space," January February 2001 pg online @ www.nss.org/settlement/roadmap/technological.html//gh-arjun)

The third issue facing development of a spacefaring civilization is life support. Permanent outposts or settlements can't afford to import life support supplies or equipment over the long term. The current technology is adequate for the space station. It provides partial recycling of water and oxygen, using "physico-chemical" technology. It uses chemical absorbers and reactors, and physical processes such as distillation and reverse osmosis, to recycle water and scrub CO2 from air. Oxygen is reclaimed by water electrolysis and CO2 reduction. Hydrogen and carbon from these processes are waste products, not recycled. There is no food production, and no recycling of wastes or garbage; these are returned to Earth. For the International Space Station, the crew and operations resupply requirement is about 10 kg per person per day. The ISS will typically have a crew of four; in 90 days it needs 900 kg per person; 3600 kg for the crew. This is easily within shuttle capabilities, even the capabilities of a crew and cargo vehicle flying on an ELV. There is little motivation to do better. A Mars proto-settlement of 1,000 people is a lot different. Such a settlement is not feasible with this state of technology. Consider 1000 people, 365 days, at about 10 kg/day. This figures to 3.65 million kg (about 8 million lb) per year. Even at reduced launch cost of $1,000/lb, the delivery cost to Mars is at least $5,000/lb. The annual cost therefore is $40 billion just for life support. No government or consortium of governments will put up with such high cost, and it is out of the question for the private sector. Bioregenerative technology is needed. This technology is also highly applicable to cleaning up our environment here on Earth. A permanent outpost needs a closed micro-ecology or something close to it. This means full recycling of all life support supplies, including waste and garbage. Periods of "no opportunity" for Mars resupply last almost two years; transit times are six months or more. Not only is the cost infeasible for ISS-level technology, the masses to be transported are outrageous. In a bioregenerative system, water and oxygen are recycled by semi-natural means, such as composting or oxidation of organic wastes, and condensation of water. CO2 is taken up by plants, and oxygen generated by photosynthesis. Plants produce food, and some may be ornamental or needed to make the micro-ecology stable. Food production is by "farming" — hydroponics. Animal protein production is feasible in larger outposts. Wastes are completely recycled. Nothing is thrown away. The life support and food production system must have long-term ecological stability. Such a closed-cycle technology is very poorly understood; Biosphere II showed how little we really know. Unfortunately, NASA is investing almost zero in this. A few years ago, NASA invested modestly. However, in today's political climate, these investments are seen as applicable only to non-approved programs and are strongly discouraged.

Resource Wars wont escalate

Bennett and Nordstrom 2K

Scott Bennett and Timothy Nordstrom, February 2000. Department of Political Science Professors at Pennsylvania State. “Foreign Policy Substitutability and Internal Economic Problems in Enduring Rivalries,” Journal of Conflict Resolution SAGE

By coming at externalization from the substitutability perspective, we hope to deal with some of the theoretical problems raised by critics of diversionary conflict theory. Substitutability can be seen as a particular problem of model specification where the dependent variable has not been fully developed. We believe that one of the theoretical problems with studies of externalization has been a lack of attention to alternative choices; Bueno de Mesquita actually hints toward this (and the importance of foreign policy substitution) when he argues that it is shortsighted to conclude that a leader will uniformly externalize in response to domestic problems at the expense of other possible policy choices (1985. 130). We hope to improve on the study of externalization and behavior within rivalries by considering multiple outcomes in response to domestic conditions.5 In particular, we will focus on the alternative option that instead of externalizing, leaders may internalize when faced with domestic economic troubles. Rather than diverting the attention of the public or relevant elites through military action, leaders may actually work to solve their internal problems internally. Tying internal solutions to the external environment, we focus on the possibility that leaders may work to disengage their country from hostile relationships in the international arena to deal with domestic issues. Domestic problems often emerge from the challenges of spreading finite resources across many different issue areas in a manner that satisfies the public and solves real problems. Turning inward for some time may free up resources required to jump-start the domestic economy or may simply provide leaders the time to solve internal distributional issues. In our study, we will focus on the condition of the domestic economy (gross domestic product [GDP] per capita growth) as a source of pressure on leaders to externalize. We do this for a number of reasons. First, when studying rivalries, we need an indicator of potential domestic trouble that is applicable beyond just the United States or just advanced industrialized democracies. In many non-Western states, variables such as election cycles and presidential popularity are irrelevant. Economics are important to all countries at all times. At a purely practical level, GDP data is also more widely available (cross-nationally and historically) than is data on inflation or unemployment.6 Second, we believe that fundamental economic conditions are a source of potential political problems to which leaders must pay attention. Slowing growth or worsening economic conditions may lead to mass dissatisfaction and protests down the road; economic problems may best be dealt with at an early stage before they turn into outward, potentially violent, conflict. This leads us to a third argument, which is that we in fact believe that it may be more appropriate in general to use indicators of latent conflict rather than manifest conflict as indicators of the potential to divert. Once the citizens of a country are so distressed that they resort to manifest conflict (rioting or engaging in open protest), it may be too late for a leader to satisfy them by engaging in distracting foreign policy actions. If indeed leaders do attempt to distract people's attention, then if protest reaches a high level, that attempt has actually failed and we are looking for correlations between failed externalization attempts and further diversion.

Resource scarcity won’t cause war – studies prove.

**Salehyan 07** assistant professor of political science at the University of North Texas [Idean Salehyan, “The New Myth About Climate Change”, Foreign Policy, August 2007, <http://www.foreignpolicy.com/story/cms.php?story_id=3922>]

First, aside from a few anecdotes, there is little systematic empirical evidence that resource scarcity and changing environmental conditions lead to conflict. In fact, several studies have shown that an abundance of natural resources is more likely to contribute to conflict. Moreover, even as the planet has warmed, the number of civil wars and insurgencies has decreased dramatically. Data collected by researchers at Uppsala University and the International Peace Research Institute, Oslo shows a steep decline in the number of armed conflicts around the world. Between 1989 and 2002, some 100 armed conflicts came to an end, including the wars in Mozambique, Nicaragua, and Cambodia. If global warming causes conflict, we should not be witnessing this downward trend. Furthermore, if famine and drought led to the crisis in Darfur, why have scores of environmental catastrophes failed to set off armed conflict elsewhere? For instance, the U.N. World Food Programme warns that 5 million people in Malawi have been experiencing chronic food shortages for several years. But famine-wracked Malawi has yet to experience a major civil war. Similarly, the Asian tsunami in 2004 killed hundreds of thousands of people, generated millions of environmental refugees, and led to severe shortages of shelter, food, clean water, and electricity. Yet the tsunami, one of the most extreme catastrophes in recent history, did not lead to an outbreak of resource wars. Clearly then, there is much more to armed conflict than resource scarcity and natural disasters

## Adv 2

### A2 MIRV

#### No impact to MIVs – Chinese modernization is safe

**Kristensen ’13** [Hans M. Kristensen is director of the Nuclear Information Project at the Federation of American Scientists where he provides the public with analysis and background information about the status of nuclear forces and the role of nuclear weapons, “Chinese Nuclear Developments Described (and Omitted) by DOD Report,” May 14, <http://blogs.fas.org/security/2013/05/china2013/>]

The report also repeats the prediction from previous years that China “may also be developing” a new road-mobile ICBM that is “possible capable of” carrying MIRVed warheads. The U.S. Intelligence Community has for several decades assessed that China has a capability to develop and deploy MIRV but that it has not yet done so. One sentence in the report comes close to saying that that’s about to change with “The new generation of mobile missiles, with warheads consisting of MIRVs and penetration aids,” but the report does not confirm widespread rumors (see here and here) that a 10-warhead DF-41 ICBM was test launched last year. All appeared to feed off this article. Many MIRV reports appear to confuse warheads with decoys and penetration aids.¶ The report does not provide an update of nuclear medium-range missiles, except confirming that a few aging liquid-fuel DF-3As are still operational. They will likely be retired within the next few years.¶ As one would imagine, the new and increasingly mobile missile force requires updating the command and control system. The DOD report states that China has done so and states that “improved communications links” means that “the ICBM units now have better access to battlefield information, uninterrupted communications connecting all command echelons, and the unit commanders are able to issue orders to multiple subordinates at once, instead of serially via voice commands.”¶ At the same time, further increases in the number of mobile ICBMs, the DOD report states, “will force the PLA to implement more sophisticated command and control systems and processes that safeguard the integrity of nuclear release authority for a larger, more dispersed force.”

### A2 prolif

#### No prolif—countries don’t want nukes

**Mueller ‘11** [John, professor of Political Science at Ohio State University, “'Clocking' Nuclear Weapons” International Relations and Security Network, online]

It is difficult to see how any country that has possessed nuclear weapons has found them beneficial since World War II. They **have supplied little diplomatic advantage,** and no nuclear-armed country has discov­ered an effective use for them in the many wars waged in places like Vietnam, Korea, Afghanistan, the Falklands, Algeria, Leba­non, Kashmir, Kosovo, Iraq, Grenada, Panama and Hungary. Nor have they been useful in deterring war. Their supposed chief achievement was to prevent World War III during the Cold War, but this notion continues to be undercut with each leak from Soviet archives. Al­though highly sympathetic to revolution­ary and civil war violence, Soviet ideology dismissed direct war against the capitalist world, whether nuclear or not, as stupen­dously stupid. That is, there was nothing for the nukes to deter. Those who experienced World War II scarcely needed visions of mushroom clouds to realize that it was im­perative to be cautious about major war. The weapons' **uselessness** also **helps to explain why alarmists have been wrong for decades** about the pace of nuclear prolifer­ation. **Dozens** of countries have been tech­nologically **capable** of obtaining nuclear arsenals, **but very few have done** so. Although international efforts have often been given credit for this, the chief rea­son seems to be that countries considering developing the weapons have found them to be a **foolish and wasteful** expenditure. Most, like Japan, joined the nonprolifera­tion regime only after deciding they didn't want the weapons anyway. And some of **those that tried** to get the weapons **eventually gave up in frustration**. Thus when Libya's self-important dictator, Muammar Gaddafi, abruptly abandoned his nuclear program in 2003, inspectors found much of his laboriously-acquired material still in its packing boxes. In the last decades, in fact, more countries have abandoned nuclear weapons pro­grams than have taken them up. Although happy to take the bribes offered to them for so doing, none has yet found that abandon­ing the weapons has been disadvantageous.

#### Prolif will fail and will be incredibly slow- too many barriers

**Hymans ‘12** [Jacques E. C. Hymans, PhD from Harvard, Associate Professor of International Relations at the University of Southern California, his most recent book is Achieving Nuclear Ambitions: Scientists, Politicians, and Proliferation, “Botching the Bomb: Why Nuclear Weapons Programs Often Fail on Their Own-and Why Iran's Might, Too,” Foreign Affairs91. 3 (May/Jun 2012): 44-53, Proquest]

THE CHRONIC problem of nuclear proliferation is once again dominating the news. A fierce debate has developed over how to respond to the threat posed by Iran's nuclear activities, which most experts believe are aimed at producing a nuclear weapon or at least the capacity to assemble one. In this debate, one side is pushing for a near-term military attack to damage or destroy Iran's nuclear program, and the other side is hoping that strict sanctions against the Islamic Republic will soften it up for a diplomatic solution. Both sides, however, share the underlying assumption that unless outside powers intervene in a dramatic fashion, it is inevitable that Iran will achieve its supposed nuclear goals very soon. Yet there is another possibility. The **Iranians had to work for 25 years just to start accumulating uranium** **enriched to 20 percent**, **which is** **not even weapons grade**. The slow pace of Iranian nuclear progress to date strongly suggests that **Iran could** still **need a very long time to actually build a bomb** -- **or** could **even ultimately fail to do so**. Indeed, global trends in proliferation suggest that either of those outcomes might be more likely than Iranian success in the near future. **Despite regular warnings** that **proliferation** **is spinning out of control**, **the fact is that since the 1970s, there has been a persistent slowdown in the pace of technical progress on nuclear weapons projects and an equally dramatic decline in their ultimate success rate.** The great proliferation slowdown can be attributed in part to U.S. and international nonproliferation efforts. But **it is mostly the result of the dysfunctional management** tendencies of the states that have sought the bomb in recent decades. **Weak institutions** in those states have **permitted political leaders to unintentionally undermine** the **performance of their nuclear scientists**, engineers, and technicians. **The harder politicians have pushed** to achieve their nuclear ambitions, **the less productive their** nuclear **programs have become**. Meanwhile, military attacks by foreign powers have tended to unite politicians and scientists in a common cause to build the bomb. Therefore, taking radical steps to rein in Iran would be not only risky but also potentially counterproductive, and much less likely to succeed than the simplest policy of all: getting out of the way and allowing the Iranian nuclear program's worst enemies -- Iran's political leaders -- to hinder the country's nuclear progress all by themselves. NUCLEAR DOGS THAT HAVE NOT BARKED "TODAY, ALMOST any industrialized country can produce a nuclear weapon in four to five years," a former chief of Israeli military intelligence recently wrote in The New York Times, echoing a widely held belief. Indeed, the more nuclear technology and know-how have diffused around the world, the more the timeline for building a bomb should have shrunk. **But in fact, rather than speeding up over the past four decades, proliferation has gone into slow motion.** Seven countries launched dedicated nuclear weapons projects before 1970, and all seven succeeded in relatively short order. By contrast, of the ten countries that have launched dedicated nuclear weapons projects since 1970, only three have achieved a bomb. And only one of the six states that failed -- Iraq -- had made much progress toward its ultimate goal by the time it gave up trying. (The jury is still out on Iran's program.) What is more, even the successful projects of recent decades have needed a long time to achieve their ends. The average timeline to the bomb for successful projects launched before 1970 was about seven years; the average timeline to the bomb for successful projects launched after 1970 has been about 17 years. International security experts have been unable to convincingly explain this remarkable trend. The first and most credible conventional explanation is that the Nuclear Nonproliferation Treaty (NPT) has prevented a cascade of new nuclear weapons states by creating a system of export controls, technology safeguards, and on-site inspections of nuclear facilities. The NPT regime has certainly closed off the most straightforward pathways to the bomb. However, the NPT became a formidable obstacle to would-be nuclear states only in the 1990s, when its export-control lists were expanded and Western states finally became serious about enforcing them and when international inspectors started acting less like tourists and more like detectives. Yet **the proliferation slowdown started at least 20 years before the system was solidified**. So the NPT, useful though it may be, cannot alone account for this phenomenon.

### A2 indopak

#### No indo-pak war

**Ganguly ‘8** [Sumit Ganguly is a professor of political science and holds the Rabindranath Tagore Chair at Indiana University, Bloomington. “Nuclear Stability in South Asia,” International Security, Vol. 33, No. 2 (Fall 2008), pp. 45–70]

As the outcomes of the 1999 and 2001–02 crises show, **nuclear deterrence is robust in South Asia. Both crises were contained** at levels considerably short of full-scale war. That said, as Paul Kapur has argued, Pakistan’s acquisition of a nuclear weapons capability may well have emboldened its leadership, secure in the belief that India had no good options to respond. India, in turn, has been grappling with an effort to forge a new military doctrine and strategy to enable it to respond to Pakistani needling while containing the possibilities of conflict escalation, especially to the nuclear level.78 Whether Indian military planners can fashion such a calibrated strategy to cope with Pakistani probes remains an open question. This article’s analysis of the 1999 and 2001–02 crises does suggest, however, that nuclear deterrence in South Asia is far from parlous, contrary to what the critics have suggested. Three specific forms of evidence can be adduced to argue the case for the strength of nuclear deterrence. First, there is a serious problem of conflation in the arguments of both Hoyt and Kapur. Undeniably, Pakistan’s willingness to provoke India has increased commensurate with its steady acquisition of a nuclear arsenal. This period from the late 1980s to the late 1990s, however, also coincided with two parallel developments that equipped Pakistan with the motives, opportunities, and means to meddle in India’s internal affairs—particularly in Jammu and Kashmir. The most important change that occurred was the end of the conflict with the Soviet Union, which freed up military resources for use in a new jihad in Kashmir. This jihad, in turn, was made possible by the emergence of an indigenous uprising within the state as a result of Indian political malfeasance.79 Once the jihadis were organized, trained, armed, and unleashed, it is far from clear whether Pakistan could control the behavior and actions of every resulting jihadist organization.80 Consequently, although the number of attacks on India did multiply during the 1990s, it is difficult to establish a firm causal connection between the growth of Pakistani boldness and its gradual acquisition of a full-fledged nuclear weapons capability. Second, India did respond with considerable force once its military planners realized the full scope and extent of the intrusions across the Line of Control. Despite the vigor of this response, India did exhibit restraint. For example, Indian pilots were under strict instructions not to cross the Line of Control in pursuit of their bombing objectives.81 They adhered to these **guidelines even though they left them** more **vulnerable** to Pakistani ground ªre.82 The Indian military exercised such **restraint to avoid provoking Pakistani fears** **of a wider attack** into Pakistan-controlled Kashmir and then into Pakistan itself. Indian restraint was also evident at another level. During the last war in Kashmir in 1965, within a week of its onset, the Indian Army horizontally escalated with an attack into Pakistani Punjab. In fact, in the Punjab, Indian forces successfully breached the international border and reached the outskirts of the regional capital, Lahore. The Indian military resorted to this strategy under conditions that were not especially propitious for the country. Prime Minister Jawaharlal Nehru, India’s first prime minister, had died in late 1964. His successor, Lal Bahadur Shastri, was a relatively unknown politician of uncertain stature and standing, and the Indian military was still recovering from the trauma of the 1962 border war with the People’s Republic of China.83 Finally, because of its role in the Cold War, the Pakistani military was armed with more sophisticated, U.S.-supplied weaponry, including the F-86 Sabre and the F-104 Starfighter aircraft. India, on the other hand, had few supersonic aircraft in its inventory, barring a small number of Soviet-supplied MiG-21s and the indigenously built HF-24.84 Furthermore, the Indian military remained concerned that China might open a second front along the Himalayan border. Such concerns were not entirely chimerical, because a Sino-Pakistani entente was under way. Despite these limitations, the Indian political leadership responded to Pakistani aggression with vigor and granted the Indian military the necessary authority to expand the scope of the war. In marked contrast to the politico-military context of 1965, in 1999 India had a self-confident (if belligerent) political leadership and a substantially more powerful military apparatus. Moreover, the country had overcome most of its Nehruvian inhibitions about the use of force to resolve disputes.85 Furthermore, unlike in 1965, India had at least two reserve strike corps in the Punjab in a state of military readiness and poised to attack across the border if given the political nod.86 Despite these significant differences and advantages, the Indian political leadership chose to scrupulously limit the scope of the conflict to the Kargil region. As K. Subrahmanyam, a prominent Indian defense analyst and political commentator, wrote in 1993:. The awareness on both sides of a nuclear capability that can enable either country to assemble nuclear weapons at short notice **induces mutual caution**. This caution is already evident on the part of India. In 1965, when Pakistan carried out its “Operation Gibraltar” and sent in infiltrators, India sent its army across the cease-fire line to destroy the assembly points of the infiltrators. That escalated into a full-scale war. In 1990, when Pakistan once again carried out a massive infiltration of terrorists trained in Pakistan, **India tried to deal with the problem on Indian territory and did not send its army into** Pakistan-occupied **Kashmir.**87

### A2 Terror

**No terror threat**

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

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

**No terrorism impact – groups are too weak and law enforcement solves**

**Zenko and Cohen 12,** (Fellow in the Center for Preventive Action at the Council on Foreign Relations, \*Fellow at the Century Foundation, (Micah and Michael, "Clear and Present Safety," March/April, Foreign Affairs, www.foreignaffairs.com/articles/137279/micah-zenko-and-michael-a-cohen/clear-and-present-safety

NONE OF this is meant to suggest that the United States faces no major challenges today. Rather, the point is that the problems confronting the country are manageable and pose minimal risks to the lives of the overwhelming majority of Americans. None of them -- separately or in combination -- justifies the alarmist rhetoric of policymakers and politicians or should lead to the conclusion that Americans live in a dangerous world. Take terrorism. Since 9/11, no security threat has been hyped more. Considering the horrors of that day, that is not surprising. But the result has been a level of fear that is **completely out of proportion** to both the capabilities of terrorist organizations and the United States' vulnerability. **On 9/11, al Qaeda got tragically lucky**. Since then, the United States has been preparing for the one percent chance (and likely even less) that it might get lucky again. But al Qaeda **lost its safe haven** after the U.S.-led invasion of Afghanistan in 2001, and further military, diplomatic, intelligence, and law enforcement efforts have **decimated the organization**, which has essentially lost whatever ability it once had to seriously threaten the United States. According to U.S. officials, al Qaeda's leadership has been reduced to two top lieutenants: Ayman al-Zawahiri and his second-in-command, Abu Yahya al-Libi. Panetta has even said that the defeat of al Qaeda is "within reach." The near collapse of the original al Qaeda organization is one reason why, in the decade since 9/11, the U.S. homeland **has not suffered *any*** large-scale **terrorist assaults**. **All subsequent attempts have failed or been thwarted**, owing in part to the incompetence of their perpetrators. Although there are undoubtedly still some terrorists who wish to kill Americans, their dreams will likely **continue to be frustrated by** **their own limitations and** by the **intelligence and law enforcement** agencies of the United States and its allies.

# Block

## Topicality

### Interp – Lorber

#### The aff is not topical --- introducing armed forces only refers to human troops, not weapons systems --- vote neg and prefer our interpretation because it’s based on textual analysis, legislative history, and intent of the WPR

Lorber 13 – Eric Lorber, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science. January 2013, "Executive Warmaking Authority and Offensive Cyber Operations: Can Existing Legislation Successfully Constrain Presidential Power?" University of Pennsylvania Journal of Contsitutional Law, 15 U. Pa. J. Const. L. 961, lexis nexis

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** W**ar** P**owers** R**esolution 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.

### A2 WPR We Meet

#### Their interp of the WPR is wrong --- because soldiers can’t just get drawn in

Healey & Wilson 13 – Jason Healey is the director of the Cyber Statecraft Initiative at the Atlantic Council. AND\*\*\* A.J. Wilson is a visiting fellow at the

Atlantic Council, 2013, “Cyber Conflict and the War Powers

Resolution: Congressional Oversight

of Hostilities in the Fifth Domain,” jnslp.com/wp-content/uploads/2010/08/11\_Dycus.pdf‎

War Powers and Offensive Cyber Operations¶ In a report submitted to Congress in November 2011, pursuant to a mandate in section 934 of the National Defense Authorization Act for fiscal year 2011, the Pentagon, quoting the WPR’s operative language, stated that:8 **Cyber operations might not include the introduction of armed forces personnel into the area of hostilities.** Cyber operations may, however, be a component of larger operations that could trigger notification and reporting in accordance with the War Powers Resolution. The Department will continue to assess each of its actions in cyberspace to determine when the requirements of the War Powers Resolution may apply to those actions. With the focus on “personnel,” this passage makes clear that the WPR will typically not apply to exclusively cyber conflicts. With cyber warriors executing such operations from centers inside the United States, such as the CYBERCOM facility at Fort Meade, Maryland, at a significant distance from the systems they are attacking and well out of harm’s way. Thus, there is no relevant “introduction” of armed forces. Without such an “introduction,” even the reporting requirements are not triggered. ¶ The view that there can be no introduction of forces into cyberspace **follows naturally from the administration’s argument that the purpose of the WPR is simply to keep US service personnel out of harm’s way** unless authorized by Congress. If devastating unmanned missions do not fall under the scope of the resolution, it is reasonable to argue that a conflict conducted in cyberspace does not either.¶ Arguing the point, an administration lawyer might ask, rhetorically, what exactly do cyber operations “introduce”? On a literal, physical level, electrical currents are redirected; but nothing is physically added to—nor, for that matter, taken away from—the hostile system. To detect any “introduction” at all, we must descend into metaphor; and even there, all that is really introduced is lines of code, packets of data: in other words, information. At most, this information constitutes the cyber equivalent of a weapon. “Armed forces,” by contrast, consist traditionally of weapons plus the flesh and blood personnel who wield them. And that brings us back to our cyber-soldier who, without leaving leafy Maryland, can choreograph electrons in Chongqing. Finally, even if armed forces are being introduced, there are no relevant “hostilities” for the same reason: no boots on the ground, no active exchanges of fire, and no body bags.

### Precision – Chesney

#### Legal precision – The War Powers Resolution applies to the phrase “introduction of United States Armed Forces into hostilities” – it’s a legal term of art. The legislative history and legal interpretation of the WPR is the authoritative source on what armed forces means in the context of war powers.

Chesney 8/29/13, Law Professor at UT and Senior Fellow at Brookings

Robert, “The War Powers Resolution and Using Force in Syria,” Lawfare Blog, http://www.lawfareblog.com/2013/08/the-war-powers-resolution-and-using-force-in-syria/

So, any problems here? Probably not. The WPR does not define what counts as sufficient “consultation,” which pretty much ensures that arguments on that score are unlikely to go anywhere. At any rate, we are told the White House “is set to provide a briefing for bipartisan members of the Congressional leadership as well as the top ranking members of the national security committees on Thursday.” The White House surely will take the position that this is adequate to discharge any WPR consultation requirement that may apply here. Others will argue this not enough, but neither the WPR’s text nor past practice gives much basis for insisting upon broader outreach or a more different kind of outreach.¶ Of course, this only matters if you have “armed forces” introduced into existing or imminent “hostilities.” And that brings us to a second issue, one that received a lot of attention in connection with the war in Libya a few years ago (see here for a collection of Lawfare posts exploring that debate in 2011). Harold Koh famously (or infamously, depending on who you ask) argued to Congress in the summer of 2011 that U.S. involvement in Libya did not amount to involvement in hostilities, as a matter of statutory interpretation, because (i) “hostilities” is an ambiguous term the meaning of which is determined in significant part by past practice under the WPR, (ii) the meaning must be determined with reference to the specific facts of a given situation, and (iii) in the Libya example of host of limiting considerations—including the limited scope of the mission, the limited exposure of US forces to attack, the limited risk of escalation, and the limited array of combat capabilities involved—combined to keep the U.S. role under the threshold of hostilities. I assume that the administration will embrace the same position here, and if the eventual strike on Syria amounts to a barrage or two of cruise missiles and nothing more, it will seem to fit within that mold. Of course, that mold was soundly criticized at the time, and no doubt will be again…. [Note: A colleague wrote in, after reading this post, to raise the possibility that Koh might have given a different answer at an earlier stage of the operation in Libya when manned US aircraft were involved in airstrikes; re-reading Koh's testimony with that in mind, I can't foreclose the possibility, but it's not clear to me either way frankly]¶ 2. The Notification Requirement under Section 4¶ Section 4 of the WPR gives the President 48 hours to provide a written report to key Congressional leaders if US forces are put into certain triggering situations, including (i) deployment into actual or imminent hostilities, or (ii) regardless of the imminence of hostilities, the forces are deployed into foreign territory, airspace, or waters while equipped for combat (excluding supply/repair/training missions).¶ Would either be triggered by an attack? I covered the “hostilities” argument above, so let’s focus on the combat-equipped deployment test. If we are talking about manned [staffed] aircraft entering Syrian airspace, or anyone else’s airspace, in order to bomb, this one looks satisfied. If instead we are talking only about sea-launched cruise missiles (SLCMs)—i.e., nothing in foreign territory but weaponry, as opposed to human beings—it’s a bit trickier. Perhaps one could argue that the missile itself is not “United States Armed Forces.”¶ But at any rate, this is all academic. It is inconceivable that the administration would launch an SLCM barrage or manned airstrikes without soon providing Congress with a formal notification of that fact, no doubt accompanied by language that the notification is provided “consistent with” the WPR.¶ So what really is at stake with the Notification Requirement of Section 4? Read on.¶ 3. The 60/90 day Withdrawal Clock under Section 5¶ The notification requirement sometimes matters a lot simply because it is the starting gun for the 60/90 day “clock” under WPR Section 5. But it won’t likely matter at all in this instance, for two reasons.¶ First, section 5 provides that the President must withdraw forces 60 days after the written notification under Section 4 (or after an additional 30 days if the President certifies in writing that safety requires the additional time to complete the withdrawal), unless Congress in the interim expressly authorizes the deployment. Or, rather, it says all this has to happen if the notification under Section 4 had to be filed due to satisfaction of the “hostilities” test; the clock does not start when the notification instead is triggered by the combat-ready deployment test. And so, once again, the definition of “hostilities” is the key. If one accepts the likely administration position that one-off airstrikes don’t count as WPR “hostilities,” the withdrawal clock never starts running.¶ The second reason that the withdrawal clock won’t matter is much simpler: if the attack involves a 24 or 48 hour period of airstrikes, and nothing more, the intervention will be over long before the clock can run. Only if we become entangled will this begin to matter, at which point the weight will fall on the credibility of claiming that we are not deployed into “hostilities.”

### Armed Forces Violation – Farlex

#### USAF = regular components of DOD

Farlex 13 The Free Dictionary By Farlex, “United States Armed Forces,” Accessed 7-23, http://www.thefreedictionary.com/United+States+Armed+Forces

Used to denote collectively only the regular components of the Army, Navy, Air Force, Marine Corps, and Coast Guard. See also Armed Forces of the United States.

### Not Hostilities

#### This is also about hostilities, not armed forces. They are two separate requirements

Eric Lorber – January 2013, EXECUTIVE WARMAKING AUTHORITY AND OFFENSIVE CYBER OPERATIONS: CAN EXISTING LEGISLATION SUCCESSFULLY CONSTRAIN PRESIDENTIAL POWER?, J.D. Candidate, University of Pennsylvania Law School, Ph.D Candidate, Duke University Department of Political Science, JOURNAL OF CONSTITUTIONAL LAW Vol. 15:3 , https://www.law.upenn.edu/live/files/1773-lorber15upajconstl9612013

As discussed above, critical to the application of the War Powers Resolution—especially in the context of an offensive cyber operation—are the definitions of key terms, particularly “armed forces,” as the relevant provisions of the Act are only triggered if the President “introduc[es armed forces] into hostilities or into situations [of] imminent . . . hostilities,”172 or if such forces are introduced “into the territory, airspace, or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces.”173 The requirements may also be triggered if the United States deploys armed forces “in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation.”174 As is evident, the definition of “armed forces” is crucial to deciphering whether the WPR applies in a particular circumstance to provide congressional leverage over executive actions. The definition of “hostilities,” which has garnered the majority of scholarly and political attention,175 particularly in the recent Libyan conflict,176 will be dealt with secondarily here because it only becomes important if “armed forces” exist in the situation.

## Da

### Frontline

#### AND- Soft on terrorism label makes it impossible for democrats to win

Setty, 12 -- Western New England University School of Law professor

[Sudha, J.D., Columbia Law School, "National Security Interest Convergence," Harvard National Security Journal, 4 Harv. Nat'l Sec. J. 185, 2012, l/n, accessed 2-5-14]

The Political Danger of Being Soft on Terror

In many nations, a politician's ability to be perceived as "tough on terrorism" is seen as a predicate of a successful political campaign. n41 President George W. Bush governed and ran for re-election in 2004 based largely on the promise that he would continue to be "tough on terror." This strategy was obviously successful, as evidenced by Bush's re-election and the maintenance of a Republican majority in the House and Senate that year. n42 By 2008, the appeal of this kind of rhetoric had lessened considerably. Then-Senator Barack Obama's campaign message of restoring the rule of law, protecting civil liberties, and curtailing other aspects of the national security state n43 was met with approval by a comfortable majority of the electorate. n44 President Obama, however, sent mixed messages regarding his national security and civil liberties priorities soon after taking office. Citing the need to restore the rule of law and protect individual rights, he immediately signed an executive order to close the prison facility at [\*199] Guantanamo Bay, Cuba, n45 put a temporary stop to the use of military commissions, n46 declared that the United States would abide by its domestic and international obligations not to torture detainees, n47 and ordered the review of the status of all of the detainees held by the U.S. military. n48 Whether out of a genuine change of belief on national security issues or due to mere political calculation, n49 Obama shifted rightward on some issues shortly after taking office, such as his position on the use of the state secrets privilege, n50 and has stepped back from many rights-protective positions that he articulated on the campaign trail in 2008 n51 and to some extent in 2009. n52 [\*200] For example, the administration has fought aggressively to limit the scope and substance of habeas corpus review for detainees, n53 has prosecuted a Canadian child soldier under the reconstituted military commission system, n54 and has unsuccessfully attempted to curtail attorney access to detainees at the Guantanamo detention facility. n55 Although left-leaning commentators have expressed surprise and disappointment at Obama's decision to move to the right on national security issues, n56 when observed through the lens of political self-interest and [\*201] party imperatives, n57 Obama's actions make sense. He largely neutralized Republican efforts to label him as "soft on terror." n58 The vast majority of congressional Democrats have followed suit, n59 leading to a tremendous amount of bipartisanship in Congress to support more robust national security measures that do little to address civil liberties and privacy concerns. n60 For the Obama administration and the Democratic Party, the political cost of tacking right on national security issues has been minimal. Candidates in the 2012 Republican Party primaries offered a national security vision that is less pluralistic and more hawkish than what President [\*202] Obama sought. n61 Such a dynamic has made it politically difficult for left-leaning Democratic politicians or liberties-oriented Republican politicians to curtail national security overreaching for fear of being labeled as "soft on terror" themselves. n62

#### National security is the only salient issue- voters can’t process anything else

McCarthy, 10 -- National Review Institute senior fellow

[Andrew, "Brown’s National Security Victory," Front Page Mag, 1-25-2010, [http://frontpagemag.com/2010/01/25/brown’s-national-security-victory/](http://frontpagemag.com/2010/01/25/brown's-national-security-victory/)

These **national security positions resonate with voters**. Healthcare, TARP, and the economic issues in general are very important, but they’re complex and make people’s eyes glaze over sometimes. The national defense issues, besides being the most important ones confronted by a political community, are comparatively easy to wrap your brain around. And strong, unapologetic national defense in a time of terrorist threat is appealing to voters. So we should be arguing these issues forcefully, and not worry about the fact that the left-wing legacy media will say nasty things about us. Their instinctive America-bashing is why they are speaking to—or, better, speaking at—a steadily decreasing audience.

#### Military issues are trump card

Avlon, 13 -- Daily Beast executive editor

[John, A CNN contributor, he won the National Society of Newspaper Columnists’ award for best online column in 2012, "The Military-Industrial Complex Is Real, and It’s Bigger Than Ever," Daily Beast, 6-12-13, www.thedailybeast.com/articles/2013/06/12/the-military-industrial-complex-is-real-and-it-s-bigger-than-ever.html, accessed 2-9-14]

The Military-Industrial Complex Is Real, and It’s Bigger Than Ever President Eisenhower was ridiculed as a conspiracy theorist for his famous remark about the “military-industry complex.” But Edward Snowden’s leaks have reminded us it’s real, it’s bigger and more wasteful than ever, and its bloat can even threaten our national security. Ike was right. In January 1961, President Dwight D. Eisenhower famously warned about the growth of the “military-industrial complex” in his farewell address. Ed Snowden, late of Booz Allen Hamilton, is just one small expression of its rise. The rest is evident throughout the Gilded Age of the metro Washington area, a boom time of corporate cronyism in the wake of 9/11 that has led to fat contracts amid the outsourcing of national security, complete with the proliferation of top security clearances to private contractors like Snowden. As the iconic Washington Post investigation detailed, there are 1,931 private companies working on counterterrorism, homeland security, and intelligence. Throughout the D.C. area, 33 buildings containing 17 million square feet of office space have been built since 9/11—the equivalent of 22 Capitol buildings. But despite the growth of government national-security workers, some 500,000 private contractors also have top security clearances. This might be defensible if private contractors actually saved taxpayer dollars, but they don’t. According to a 2008 study by the Office of the Director of National Intelligence, contractors made up 29 percent of intelligence agency workforce but cost the equivalent of 49 percent of personnel budgets. Consider the fact that Snowden made $122,000 a year in his brief Hawaii-based gig for Booz Allen Hamilton, offering evident tech savvy but only a GED. The average annual salary for a person with a GED is only $37,200. This isn’t an industry interested in belt-tightening. The proliferation of military-industrial complex contractors has helped propel the D.C. metro area to include seven of the top 10 wealthiest counties in the United States. Contra Snowden’s formal education, five of the top six counties for college-educated workers are in the D.C. metro area. The overlap between the two is not surprising: Loudoun, Arlington, and Fairfax counties in Virginia are particularly plush places to be in 2013. If you want to find out what’s really happening in politics and government, follow the money. When it comes to national security, civic concerns compete with financial self-interest—and guess which often wins the tug of war? The problem, of course, is not just a matter of money. It is the amount of overlap and inevitable turf battles that occur when multiple organizations—both private and public—all strive to prove their relevance to protect their self-interest. To use another example from the Post’s “Top Secret America” series, there are 51 federal organizations and military commands tracking the flow of money in terrorist networks. This just can’t be the most effective way to accomplish the mission. But the military-industrial complex has a trump card to play with members of Congress and the public: nobody wants to argue with national security, especially when the very real threat of terrorism exists. This ain’t no phantom menace: more than 45 jihadist terror plots had been stopped before the 10th anniversary of 9/11. But the combination of real threat and opaque multibillion-dollar budgets leads inevitably to a lack of transparency and accountability. That’s where the risk of not just information-dragnet overreach but also the risk of leakers like Ed Snowden comes in. With this level of complexity in the system, security is ironically almost impossible to maintain.

### Space Treaty Links

#### Major opposition to the plan in the US

Jaramillo, 9 -- Ploughshres Monitor [Cesar, "In Defence of the PPWT Treaty: Toward a Space Weapons Ban," Winter 2009 30.4, ploughshares.ca/pl\_publications/in-defence-of-the-ppwt-treaty-toward-a-space-weapons-ban/, accessed 3-30-14]

Perhaps the biggest obstacle to the adoption of the PPWT has been the staunch US opposition—to the draft treaty in particular and to any legal measure designed to restrict its options in space. In 2007, the US Permanent Representative to the CD, Christina Rocca, said, “We continue to believe that there is no arms race in space, and therefore no problem for arms control to solve” (US Mission to the UN in Geneva, 2007). Such opposition by the Bush Administration was hardly surprising, as the US has recently rejected any binding mechanisms that could restrict its ability to operate freely in outer space. Moreover, this reluctance to abide by multilateral legal regimes related to space security has been codified in its National Space Policy (US Office of Science & Technology Policy 2006), which specifically states that: The United States will oppose the development of new legal regimes or other restrictions that seek to prohibit or limit U.S. access to or use of space. Proposed arms control agreements or restrictions must not impair the rights of the United States to conduct research, development, testing, and operations or other activities in space for U.S. national interests.

#### People believe it crushes US security

Su, 11 [Jinyuan, fellow at Cambridge University, 4/8/10, “The ‘peaceful purposes’ principle in outer space and the Russia-China PPWT Proposal”, http://www.sciencedirect.com/science/article/pii/S026596461000024X] AS

Using the global commons for “peaceful purposes” is agreed upon among states in principle but **disputed in substance**. While non-militarization has been superceded by the doctrine of non-aggression, the latter, as a necessary rather than sufficient condition for “peaceful purposes”, is tested to its limit by the pressing issue of space weaponization. An international treaty to plug the gaps of the Outer Space Treaty should be negotiated. This would require the prohibition of both weapons in outer space and anti-satellite weapons on Earth. The Draft Treaty on Prevention of the Placement of Weapons in Outer Space and of the Threat or Use of Force against Outer Space Objects, proposed by Russia and China at the Conference on Disarmament, is an effort in this direction. However, **divided views are held on several issues** arising from the draft treaty, e.g. the efficiency of the current regime of outer space law, definitions of “weapons in space” and “threat or use of force”, and verification. A primary reason for US opposition to the draft treaty are security concerns over its space assets. However, exercising the right of self-defense is excluded from the obligations of disarmament and this is explicitly affirmed in the draft treaty.

### Security

#### Only data supports this- security is an over-riding concern for women

Burns, 11 -- PhD Candidate at University of Missouri

[Courtney, "Men are from Mars, Women are from Venus? Foreign Policy Decisions and the Gender Gap," Journeys in World Politics, Nov 2011, www.saramitchell.org/burns.pdf, accessed 3-29-14]

Based on the OLS regression models, hypothesis 1 is not supported; however, hypothesis 2 does get some support. The findings in models 1 and 3 seem to be somewhat surprising since they indicate that men are voting more liberal than women after the executive decided to engage in conflict. Moreover, the results indicate that in the era of the security state, women are just as concerned with safety as men, if not more so. These results could definitely influence strategic choices for the executive. With the growing number of women actually voting and influencing voter preferences (Inglehart & Norris, 2000), executives may find that engaging in conflict in the name of security may allow them to stay in office longer.

#### Security issues are key to women voters

Thompson, 12 -- Secure America Now advisory board

[Jeri, "SECURITY MOMS ARE BACK," American Spectator, spectator.org/blog/30573/security-moms-are-back, accessed 2-9-14]

SECURITY MOMS ARE BACK

One overlooked segment of the voting public that played a critical role in both the 2002 and 2004 election cycles was the so-called "Security Mom," and it appears that this diverse group of women could again play a pivotal role in 2012. A full third of the respondents to a recent Secure America Now poll would fall into the category of a Security Mom based on age and other demographic data. Secure America Now polled in two key battleground states just prior to, during and after last week's Middle Eastern events, and what is clear from the over-arching numbers is that just as economic security is a big issue in the 2012 presidential race, national security rates just as highly. In Florida 71% of voters said national security issues are very important; almost 60% did so in Ohio. Iran's pursuit of nuclear weapons, the threat of terrorism attacks on the U.S., the role of extremist groups like the Muslim Brotherhood both here at home and abroad, as well as the foreign policy leadership -- or lack thereof -- of President Obama, and the state of America's national defense infrastructure, all are on the forefront of the American voter's mind. For every conversation about kitchen table issues, like taxes, government debt, the lowering value of the dollar, high gas prices, the challenges our kids face in schools, moms are talking about how important it is that they and their children feel safe in going about their daily lives. To be fair, neither major party is talking enough about these issues. Given what we know now about the waning American influence in the world, the terrorist attacks in Egypt and Libya, and the current strain our relations with Israel and other allies, isn't it time for a serious discussion about national security in this presidential race? It is dangerous for the world to have a weak America, and an illusion to think it does not matter to our families.

### A2 Plan Popular – Frontline

#### Link turns are irrelevant- public hates congress asserting itself on war powers- even when they don’t like the war powers

Green, 7 -- Catholic University of America politics professor

[Matthew, CUA Institute for Policy Research associate fellow, “Challenging the President’s War Powers: the Role of Speakers of the House,” 9-10-2007, http://www.wilsoncenter.org/sites/default/files/war\_powers\_resurgent-green-paper.doc, accessed 2-8-14]

Another consideration that may keep congressional leaders from resisting or challenging presidential war powers is how they believe such a challenge would be viewed by the public. Specifically, congressional leaders (and their party’s rank-and-file) may fear that challenging presidents in times of conflict endangers – or is perceived as endangering – U.S. troops in deployment. Earlier Speakers often justified their unwillingness to challenge unilateral uses of military forces by the executive branch on this basis. Speaker O’Neill, for example, later explained his initial reticence to speak against Reagan’s invasion of Grenada by writing that “I’d be damned if I was going to voice my criticism while our boys were out there (O’Neill 1987, 438). Later, Speaker Foley argued during the 1990 invasion of Panama that “When there is the engagement of U.S. forces in the field, it behooves all of us to give that support” (Friedman 1989). Proposals that seek to end military engagements by shutting off funds for troops in battle may be particularly unpopular among voters. **Even** in early 1973, **when** a majority of Americans clearly endorsed an end to the Vietnam War, one public opinion survey revealed that 48% of the public opposed a congressional cut-off of funds for troops, while 42% did (Erskine 1973). The final, and perhaps most important, consideration is what the general views of the American public are towards proper presidential authority. As long as voters believe that presidents are constitutionally entitled to the powers they claim to have, congressional leaders may believe it is simply not worthwhile, or perhaps even politically risky, to directly challenge such claims – even if presidents use those powers unwisely. The polling data shown in Table 1 above suggests an increased skepticism towards presidents who assert unilateral power to send troops into battle. But it is perhaps telling that, in the recent book Thirty-three Questions about American History You’re Not Supposed to Ask, one of the widely-held “myths” that author Thomas Woods seeks to dispel is that the Constitution gives presidents the power to deploy troops as he sees fit, without advance approval by Congress (Woods 2007). The public may be particularly **deferential to presidents** in times of war or, more generally, international tensions or fears of invasion or attack (such as during the Cold War or today’s “War on Terror”). Any attempt by leaders in Congress to expand congressional war powers – such as by reforming, revising, or even repealing the War Powers Resolution – may get nowhere if the American public does not stand behind it. Until then, we may continue to see congressional leaders, including the Speaker, view presidential war powers through a partisan lens, and only resist such powers when they are exercised by an opposite-party president without the support of the American public.

### A2 Obama Doesn’t Make it an Issue

#### Obama always wants to maintain the authority even if he “loves the plan”

Pious 11—Professor of political science @ Barnard College [Richard M. Pious (Chair in History and American Studies @ Barnard College), “Prerogative Power in the Obama Administration: Continuity and Change in the War on Terrorism,” Presidential Studies Quarterly 41, no. 2 (June)]

Obama has taken some steps to recede from the extreme claims of the Bush administration but seems to be developing a variant of “soft prerogative,” in which he keeps the option to act through prerogative power in reserve. In the court cases that have carried over from the Bush administration, he seems to be acting in accordance with the observation of Brad Berenson, a former associate counsel in the Bush White House who pointed out that “The dirty little secret here is that the United States government has enduring institutional interests that carry over from administration to administration and almost always dictate the position the government takes” (Gerstein 2009b). Similarly a law professor at Columbia University, Matthew Waxman, who served as deputy assistant secretary of defense for detainee affairs in the Bush administration, has noted “These are long-standing institutional positions of the executive branch that have historically transcended partisan divides” (Waxman 2010).

Hugh Heclo has analyzed the “deep structure” of the presidency as an institution (i.e., those parts that do not change when an administration changes) (Heclo 1999). In a related sense, there is a “deep structure” of prerogative claims, which do not change—or change slowly—when partisan control of the White House changes. These include claims of sovereign immunity, official immunities involving duties of officials, testimonial privileges (executive, departmental, lawyer-client, protective service), and state secrets doctrines, all of which the Obama administration has attempted to extend in court filings. And when there is movement, it seems always to be in the direction of extending claims rather than retracting them. The prerogative claims are then employed to justify (in courts of law and in the court of public opinion) presidential efforts to prevent prosecution of former officials and prevent the establishment of commissions of inquiry.

The Obama administration, in its court filings involving the Bush administration, has distinguished between policy (which is not defended) and privilege. The “deep structure” is not substantive as much as it is a set of privileges that prevent accountability. Obama seems to have made a “non-decision” about most of these privileges, with extensions of some—which not only help the Bush officials, but also may help members of his administration once they leave office. By failing to push for the Dawn Johnsen nomination, and by allowing the acting chief, David Barron, to remain as the top official, Obama has signaled that there will be a great deal of continuity with the Bush administration. Pg. 286-287

### UQ Frontline

#### Err neg- everything has to go right for the GOP, dems only need to win two races

Roberts, 2-6 -- The Guardian

[Dan, "Senior Democrats set out strategy in preparation for tough Senate battle," The Guardian, 2-6-14, www.theguardian.com/world/2014/feb/06/democrats-obama-clinton-fight-senate-midterms, accessed 2-10-14]

“They have to win eight out of nine of the competitive races to take the majority. These are going to be very tough races, but they are going to have to have an almost perfect score,” Justin Barasky, the Democratic Senate Campaign Committee’s national press secretary, told the Guardian. Democrats could also get some boosts in the coming weeks from the appointment of an interim senator in Montana and potentially bitter primary fights among Republican rivals in a number of states. The Montana appointment was triggered by the White House’s decision to appoint the retiring senator Max Baucus as US ambassador to China – a move the party privately hopes will allow the state's Democratic governor to appoint their favoured candidate before the midterms, thereby securing that candidate an incumbent’s advantage. Democrats also hope that Republican primaries in Kentucky, Alaska and North Carolina will distract their opponents and pull moderate candidates to the right in ways that may alienate floating voters come the general election.

#### Women are empirically a firewall- guarantee dems hold the senate

Cohen, 13 -- Guardian staff and PhD in US political history from Columbia University

[Nancy, "Female voters have the key to Democrats holding the US Senate," The Guardian, www.theguardian.com/commentisfree/2013/jul/23/women-key-democrats-hold-senate, accessed 2-9-14]

Female voters have the key to Democrats holding the US Senate

Some analysts believe that Republicans could take control of the Senate in the 2014 midterms. Not if women vote, they won't Will Republicans win control of the US Senate in 2014? Election analysts now think the GOP has even odds of picking up the six seats needed to win the majority. No sweat! All Republicans have to do is defeat an incumbent woman Democrat in North Carolina, land of omnibus motorcycle-and-abortion bills, where the GOP governor and legislature are less popular than pro-abortion rights protesters. Republicans just have to hold Georgia, where one candidate thinks Todd Akin was "partially right": We tell infertile couples all the time … don't be so tense and uptight because all that adrenaline can cause you not to ovulate. And another kicked off 2012's war on women, when she directed the Komen Foundation to cut funding for breast cancer screenings at Planned Parenthood. What could possibly go wrong? Clearly, **Dem**ocrat**s shouldn't hit the panic button** just yet. **Women can** rescue the party **– again – if Dem**ocrat**s play their hand right.** In 2012, women voters favored Obama by a 10pt margin – and helped secure the Senate for Democrats. (Women's votes made the difference in Democratic Senate victories in Indiana, Wisconsin, and Florida.) Back in 2010, however, dissatisfied by the snail's pace of change, feeling ignored by Tea Party-distracted Democrats, millions of women who had voted for Obama in 2008 stayed home. In polarized America, everything depends on who votes and who doesn't. Midterm elections are low participation affairs, especially among members of the rising American electorate of unmarried women, African Americans, Latinos, and the young. The new political demographic leans Democratic– but what will take to get women to the polls in 2014? Anger, for one. A tsunami of anti-women's rights legislation has provoked a full-blown national backlash against the GOP. So far in 2013, nearly 500 restrictions on access to abortion, birth control, and sex education have been moved in Republican-controlled states, according to the Guttmacher Institute. The Republican-controlled House of Representatives has also eliminated food stamps from the Farm Bill, slashed Medicaid funding, and repealed the Affordable Care Act – all programs disproportionately benefitting women. Jess McIntosh of Emily's List, a 2 million member PAC dedicated to electing pro-choice Democratic women, tells me that people are more engaged at this point in the cycle than they've ever been before: The GOP's antics in 2012 brought a lot of new people onto the field. We don't have to spend the time educating them that the secret Republican agenda is to take away rights and opportunities for women. Voters know that, and these gaffes about women feed into the existing narrative. Fear over what Republicans could do with more power is one reason to vote. But hope for forward movement, for positive change, can be an even more powerful incentive. That's what New York Senator Kirsten Gillibrand and House minority leader Nancy Pelosi are offering. Gillibrand plans to unveil a women's economic empowerment agenda this fall, premised on the idea that women's economic security isn't just a women's issue, but a universal middle-class issue. The five-point plan will call for action on paid family leave, universal pre-school, affordable childcare, a raise in the minimum wage, and equal pay. Pelosi and three other Democratic House colleagues released a similar plan last week. Democrats up and down the ticket should embrace Gillibrand and Pelosi's pro-women initiatives; it's good policy and good politics. Women candidates can also amplify the appeal to women voters, and the 2014 field is shaping up as another banner year. Democrats should be thrilled to have incumbent women carrying the message in North Carolina and Louisiana, two states rated by former New York Times polling analyst Nate Silver as toss-ups. North Carolina Republicans, with their stealth attempt to attach anti-abortion measures to a motorcycle safety bill, have given pro-choice Senator Kay Hagan plenty of campaign fodder. To win, Hagan and Louisiana's Mary Landrieu need strong turnout from African Americans and unmarried women. As we've seen, that's tough in a midterm year. But according to Celinda Lake, a Democratic pollster who has conducted extensive research on the rising American electorate, African Americans and unmarried women are more prone to vote for women candidates. African Americans are an important voting bloc in both of these southern states, and North Carolina has the ninth highest concentration of unmarried women in the nation. In addition, strong women candidates have recently declared their candidacies in two states considered Democratic pick-up opportunities: Georgia and Kentucky. Michelle Nunn is a successful nonprofit executive, the daughter of admired former senator Sam Nunn, and a pro-choice, pro-marriage equality church-goer who recently shared a stage with both the Obamas and the Bushes. Kentucky senate candidate, Secretary of State Alison Lundergan Grimes, has impressed Democratic party leaders and could flip Kentucky – especially if Republican Senate minority leader Mitch McConnell keeps airing ads with Grimes' voice digitally altered to make her sound like a shrill harpy. Granted, as election analysts note, the fundamentals of 2014 favor the GOP. Historically, the midterm elections six years into a two-term presidency are a graveyard for the incumbent president's party. But **we've been here before**, **convinced the Senate will fall** to the GOP. So it was in 2012. Until Todd Akin and Richard Mourdock gabbed about rape. So it was in 2010. Until Sharron Angle advised pregnant teenage rape victims to make lemonade out of "a lemon situation" and Christine O'Donnell was absolutely, no ma'am, not a witch. What, besides Republican delirium, did these races have in common? A surge of women voters shut that whole Republican thing down. **Everything** **is in place – the women voters**, a pro-women **platform**, the women **candidates – for a repeat** **performance**. One men can applaud, too.

### A2 Silver

#### Silver forecast unleashes turnout and funding –Silver prodicts go neg

Sappenfield, 3-24 – CSM staff writer

[Mark, "Nate Silver's new Senate forecast could terrify Democrats into action," Christian Science Monitor, 3-23-14, www.csmonitor.com/USA/DC-Decoder/2014/0323/Nate-Silver-s-new-Senate-forecast-could-terrify-Democrats-into-action-video, accessed 3-28-14]

Nate Silver's new Senate forecast could terrify Democrats into action (+video) Polling expert Nate Silver has come out with a new forecast: Republicans are currently favorites to take control of the Senate this fall. That prediction could open Democratic wallets. Nate Silver, the political prognosticator pilloried by Republicans for predicting, correctly, President Obama's convincing victory in 2012, has perhaps just given the GOP another reason to curse him. He has predicted that Republicans are better than even odds to take back the Senate this November. At first blush, that might seem like something for Republicans to celebrate. Control of the Senate is the Grand Prize up for grabs in this fall's midterm elections. Few doubt that Republicans will hold on to the House, and most also acknowledge that Republicans are likely to cut into the Democrats' 55-to-45 majority in the Senate. (There are actually only 53 Senate Democrats, but both Senate Independents side with the Democrats.) The burning question is whether Republicans will win enough seats to become the majority. And now Mr. Silver, the Web's foremost political polling analyst and the very man who refused to give Mitt Romney much electoral love two years ago, has suggested on his FiveThirtyEight blog that "Republicans are now slight favorites to win at least six seats and capture the chamber." Crack open the caviar, right? Cue the images of Mr. Obama's final two lonely years in the Oval Office, where filling out the presidential Final Four bracket will be the height of his executive action. But here's the rub. One of the great challenges facing Democrats this November is the threat of getting outspent, big time. That is why Senate majority leader Harry Reid (D) has taken every conceivable opportunity (and a couple fairly inconceivable ones) to attack the Koch brothers, the conservative political donors who even at this early stage of the election are spending millions on advertisements to unseat the most vulnerable Senate Democrats. Fortunately for Senator Reid, no one opens Democratic pocketbooks like Nate Silver, it seems. Democratic operatives have found that the most effective way to get a potential donor to open an e-mail is to put Silver's name in the subject line, according to a report by National Journal's Scott Bland. As in: "Nate Silver's terrifying math." The last time Silver released a Senate forecast (July), he called Senate control a "toss-up." His new analysis, released Sunday, could be the forecast that launches a thousand Democratic e-mails. If the June forecast was "terrifying," the new one is nearing a Democratic Senatepocalypse. "There's a lot of testing, particularly for subject lines, to see what has the best open rates," Taryn Rosenkranz, a Democratic digital fundraising consultant, told National Journal. "Using that name [Silver] over and over suggests it's successful, and people are opening and giving." The Koch brothers' early spending is already forcing some Democrats to dip into funds they had hoped to hold in reserve. The Koch brothers' "super political action committee," Americans for Prosperity, has reportedly spent $3 million on ads attacking Sen. Mary Landrieu (D) of Louisiana on Obamacare. "Now, Landrieu is reserving $2.6 million in airtime between April and June, an apparent recognition that the cascade of opposition ads has forced her to consider spending big months before the November election," The Washington Post reported last week. Perhaps the biggest problem facing Democrats this fall is getting their own voters to the polls. In midterm elections, when the political buzz is lower, many voters stay at home – and those voters often trend Democratic. "During presidential elections, young people vote, women are more likely to vote, blacks, Hispanics more likely to vote," Obama said Thursday at a fundraiser in Miami for the Democratic Congressional Campaign Committee. "But in midterms, we get clobbered – either because we don't think it's important, or we've become so discouraged about what's happening in Washington that we think it's not worth our while." Motivating those voters to think voting is worth their while this November will be Job No. 1 for the Democratic campaign operatives. And on Sunday, Silver might have given them a little more ammunition.

#### Silver method isn’t useful right now- poll scarcity- prefer structural factors

Sullivan, 3-24 – Washington Post

[Sean, "DSCC pushes back against Nate Silver," Washington Post, 3-24-14, quoted by Sean Sullivan, www.washingtonpost.com/blogs/post-politics/wp/2014/03/24/dscc-pushes-back-against-nate-silver/, accessed 3-26-14]

"Nate Silver and the staff at FiveThirtyEight are doing groundbreaking work, but, as they have noted, they have to base their forecasts on a scarce supply of public polls. In some cases more than half of these polls come from GOP polling outfits," writes Cecil. "This was one reason why FiveThirtyEight forecasts in North Dakota and Montana were so far off in 2012. In fact, in August of 2012 Silver forecasted a 61% likelihood that Republicans would pick up enough seats to claim the majority. Three months later Democrats went on to win 55 seats."

### A2 Obamacare

#### Tweaks will doom GOP Obamacare args

Moran, 3-27 – PJ Media's Chicago editor and Blog editor at The American Thinker

[Rick, "Vulnerable Senate Dems plan Obamacare tweaks," 3-27-14, American Thinker, www.americanthinker.com/blog/2014/03/vulnerable\_senate\_dems\_plan\_obamacare\_tweaks.html, accessed 3-27-14]

Many Democrats in tight races this fall have made clear they are committed to keeping the health law but want to fix it, drawing a distinction with Republicans who want to scrap it entirely. "The law is very good; it has some very good parts to it," said Sen. Mary Landrieu, a Democrat running for re-election in conservative-leaning Louisiana. "I do not believe it should be repealed—my opponents do." This is a trap for Republicans. If they go ahead and help the Democrats by applying a bandaid to this gaping wound, it won't help consumers and would dispirit the base of the party. On the other hand, that's just what these Dems are counting on. By refusing to help "fix" Obamacare, they can run on the notion that Republicans don't want to make the law better because it benefits them politically if it remains a mess.

### Impact Calc

#### Turns war impacts

Klare, 6 -- professor of peace and world security studies at Hampshire College,

(Michael. The Coming Resource Wars. March 10, 2006. http://www.alternet.org/environment/33243)

It's official: the era of resource wars is upon us. In a major London address, British Defense Secretary John Reid warned that global climate change and dwindling natural resources are combining to increase the likelihood of violent conflict over land, water and energy. Climate change, he indicated, "will make scarce resources, clean water, viable agricultural land even scarcer" -- and this will "make the emergence of violent conflict more rather than less likely." Although not unprecedented, Reid's prediction of an upsurge in resource conflict is significant both because of his senior rank and the vehemence of his remarks. "The blunt truth is that the lack of water and agricultural land is a significant contributory factor to the tragic conflict we see unfolding in Darfur," he declared. "We should see this as a warning sign." Resource conflicts of this type are most likely to arise in the developing world, Reid indicated, but the more advanced and affluent countries are not likely to be spared the damaging and destabilizing effects of global climate change. With sea levels rising, water and energy becoming increasingly scarce and prime agricultural lands turning into deserts, internecine warfare over access to vital resources will become a global phenomenon. Reid's speech, delivered at the prestigious Chatham House in London (Britain's equivalent of the Council on Foreign Relations), is but the most recent expression of a growing trend in strategic circles to view environmental and resource effects -- rather than political orientation and ideology -- as the most potent source of armed conflict in the decades to come. With the world population rising, global consumption rates soaring, energy supplies rapidly disappearing and climate change eradicating valuable farmland, the stage is being set for persistent and worldwide struggles over vital resources. Religious and political strife will not disappear in this scenario, but rather will be channeled into contests over valuable sources of water, food and energy. Prior to Reid's address, the most significant expression of this outlook was a report prepared for the U.S. Department of Defense by a California-based consulting firm in October 2003. Entitled "An Abrupt Climate Change Scenario and Its Implications for United States National Security," the report warned that global climate change is more likely to result in sudden, cataclysmic environmental events than a gradual (and therefore manageable) rise in average temperatures. Such events could include a substantial increase in global sea levels, intense storms and hurricanes and continent-wide "dust bowl" effects. This would trigger pitched battles between the survivors of these effects for access to food, water, habitable land and energy supplies. "Violence and disruption stemming from the stresses created by abrupt changes in the climate pose a different type of threat to national security than we are accustomed to today," the 2003 report noted. "Military confrontation may be triggered by a desperate need for natural resources such as energy, food and water rather than by conflicts over ideology, religion or national honor." Until now, this mode of analysis has failed to command the attention of top American and British policymakers. For the most part, they insist that ideological and religious differences -- notably, the clash between values of tolerance and democracy on one hand and extremist forms of Islam on the other -- remain the main drivers of international conflict. But Reid's speech at Chatham House suggests that a major shift in strategic thinking may be under way. Environmental perils may soon dominate the world security agenda. This shift is due in part to the growing weight of evidence pointing to a significant human role in altering the planet's basic climate systems. Recent studies showing the rapid shrinkage of the polar ice caps, the accelerated melting of North American glaciers, the increased frequency of severe hurricanes and a number of other such effects all suggest that dramatic and potentially harmful changes to the global climate have begun to occur. More importantly, they conclude that human behavior -- most importantly, the burning of fossil fuels in factories, power plants, and motor vehicles -- is the most likely cause of these changes. This assessment may not have yet penetrated the White House and other bastions of head-in-the-sand thinking, but it is clearly gaining ground among scientists and thoughtful analysts around the world. For the most part, public discussion of global climate change has tended to describe its effects as an environmental problem -- as a threat to safe water, arable soil, temperate forests, certain species and so on. And, of course, climate change is a potent threat to the environment; in fact, the greatest threat imaginable. But viewing climate change as an environmental problem fails to do justice to the magnitude of the peril it poses. As Reid's speech and the 2003 Pentagon study make clear, the greatest danger posed by global climate change is not the degradation of ecosystems per se, but rather the disintegration of entire human societies, producing wholesale starvation, mass migrations and recurring conflict over resources. "As famine, disease, and weather-related disasters strike due to abrupt climate change," the Pentagon report notes, "many countries' needs will exceed their carrying capacity" -- that is, their ability to provide the minimum requirements for human survival. This "will create a sense of desperation, which is likely to lead to offensive aggression" against countries with a greater stock of vital resources. "Imagine eastern European countries, struggling to feed their populations with a falling supply of food, water, and energy, eyeing Russia, whose population is already in decline, for access to its grain, minerals, and energy supply." Similar scenarios will be replicated all across the planet, as those without the means to survival invade or migrate to those with greater abundance -- producing endless struggles between resource "haves" and "have-nots." It is this prospect, more than anything, that worries John Reid. In particular, he expressed concern over the inadequate capacity of poor and unstable countries to cope with the effects of climate change, and the resulting risk of state collapse, civil war and mass migration. "More than 300 million people in Africa currently lack access to safe water," he observed, and "climate change will worsen this dire situation" -- provoking more wars like Darfur. And even if these social disasters will occur primarily in the developing world, the wealthier countries will also be caught up in them, whether by participating in peacekeeping and humanitarian aid operations, by fending off unwanted migrants or by fighting for access to overseas supplies of food, oil, and minerals. When reading of these nightmarish scenarios, it is easy to conjure up images of desperate, starving people killing one another with knives, staves and clubs -- as was certainly often the case in the past, and could easily prove to be so again. But these scenarios also envision the use of more deadly weapons. "In this world of warring states," the 2003 Pentagon report predicted, "nuclear arms proliferation is inevitable." As oil and natural gas disappears, more and more countries will rely on nuclear power to meet their energy needs -- and this "will accelerate nuclear proliferation as countries develop enrichment and reprocessing capabilities to ensure their national security." Although speculative, these reports make one thing clear: when thinking about the calamitous effects of global climate change, we must emphasize its social and political consequences as much as its purely environmental effects. Drought, flooding and storms can kill us, and surely will -- but so will wars among the survivors of these catastrophes over what remains of food, water and shelter. As Reid's comments indicate, no society, however affluent, will escape involvement in these forms of conflict.

#### Nuclear war doesn’t cause extinction- bad physics

**Seitz, 6** -- **Harvard University Center for International Affairs visiting scholar**

(Russell, "The' Nuclear Winter ' Meltdown; Photoshopping the Apocalypse," adamant.typepad.com/seitz/2006/12/preherein\_honor.html, accessed 9-25-11)

The recent winter solstice witnessed a 'Carl Sagan Blog-a-thon' . So in celebration of Al Gore's pal, the late author of The Cold And The Dark there follows The Wall Street Journal's warmly cautionary Cold War reminder of how a campaign for the Nobel Peace prize on the Nuclear Freeze ticket devolved into a joke played at the expense of climate modeling's street cred on the eve of the global warming debate :The Melting of 'Nuclear Winter' All that remains of Sagan's Big Chill are curves such as this , but history is full of prophets of doom who fail to deliver, not all are without honor in their own land. The 1983 'Nuclear Winter " papers in Science were so politicized that even the eminently liberal President of The Council for a Liveable World called "The worst example of the misrepesentation of science to the public in my memory." Among the authors was Stanford President Donald Kennedy. Today he edits Science , the nation's major arbiter of climate science--and policy. Below, a case illustrating the mid-range of the ~.7 to ~1.6 degree C maximum cooling the 2006 studies suggest is superimposed in color on the Blackly Apocalyptic predictions published in Science Vol. 222, 1983 . They're worth comparing, because the range of soot concentrations in the new models overlaps with cases assumed to have dire climatic consequences in the widely publicized 1983 scenarios – "Apocalyptic predictions require, to be taken seriously,higher standards of evidence than do assertions on other matters where the stakes are not as great." wrote Sagan in Foreign Affairs , Winter 1983 -84. But that "evidence" was never forthcoming. 'Nuclear Winter' never existed outside of a computer except as air-brushed animation commissioned by the a PR firm - Porter Novelli Inc. Yet Sagan predicted "the extinction of the human species " as temperatures plummeted 35 degrees C and the world froze in the aftermath of a nuclear holocaust. Last year, Sagan's cohort tried to reanimate the ghost in a machine anti-nuclear activists invoked in the depths of the Cold War, by re-running equally arbitrary scenarios on a modern interactive Global Circulation Model. But the Cold War is history in more ways than one. It is a credit to post-modern computer climate simulations that they do not reproduce the apocalyptic results of what Sagan oxymoronically termed "a sophisticated one dimensional model." The subzero 'baseline case' has melted down into a tepid 1.3 degrees of average cooling- grey skies do not a Ragnarok make . What remains is just not the stuff that End of the World myths are made of. It is hard to exaggerate how seriously " nuclear winter "was once taken by policy analysts who ought to have known better. Many were taken aback by the sheer force of Sagan's rhetoric Remarkably, Science's news coverage of the new results fails to graphically compare them with the old ones Editor Kennedy and other recent executives of the American Association for the Advancement of Science, once proudly co-authored and helped to publicize. You can't say they didn't try to reproduce this Cold War icon. Once again, soot from imaginary software materializes in midair by the megaton, flying higher than Mount Everest . This is not physics, but a crude exercise in ' garbage in, gospel out' parameter forcing designed to maximize and extend the cooling an aeosol can generate, by sparing it from realistic attrition by rainout in the lower atmosphere. Despite decades of progress in modeling atmospheric chemistry , there is none in this computer simulation, and ignoring photochemistry further extends its impact. Fortunately , the history of science is as hard to erase as it is easy to ignore. Their past mastery of semantic agression cannot spare the authors of "Nuclear Winter Lite " direct comparison of their new results and their old. Dark smoke clouds in the lower atmosphere don't last long enough to spread across the globe. Cloud droplets and rainfall remove them. rapidly washing them out of the sky in a matter of days to weeks- not long enough to sustain a global pall. Real world weather brings down particles much as soot is scrubbed out of power plant smoke by the water sprays in smoke stack scrubbers Robock acknowledges this- not even a single degree of cooling results when soot is released at lower elevations in he models . The workaround is to inject the imaginary aerosol at truly Himalayan elevations - pressure altitudes of 300 millibar and higher , where the computer model's vertical transport function modules pass it off to their even higher neighbors in the stratosphere , where it does not rain and particles linger.. The new studies like the old suffer from the disconnect between a desire to paint the sky black and the vicissitudes of natural history. As with many exercise in worst case models both at invoke rare phenomena as commonplace, claiming it prudent to assume the worst. But the real world is subject to Murphy's lesser known second law- if everything must go wrong, don't bet on it. In 2006 as in 1983 firestorms and forest fires that send smoke into the stratosphere rise to alien prominence in the modelers re-imagined world , but i the real one remains a very different place, where though every month sees forest fires burning areas the size of cities - 2,500 hectares or larger , stratospheric smoke injections arise but once in a blue moon. So how come these neo-nuclear winter models feature so much smoke so far aloft for so long? The answer is simple- the modelers intervened. Turning off vertical transport algorithms may make Al Gore happy- he has bet on reviving the credibility Sagan's ersatz apocalypse , but there is no denying that in some of these scenarios human desire, not physical forces accounts for the vertical hoisting of millions of tons of mass ten vertical kilometers into the sky.to the level at which the models take over , with results at once predictable --and arbitrary. This is not physics, it is computer gamesmanship carried over to a new generation of X-Box.

### EPA Solves Warming

#### AND- EPA alone is sufficient to prevent run-away warming

Parenti, 10 -- Professor in Sustainable Development at The School for International Training Graduate Institute

[Christian, PhD from the London School of Economics, Christian completed a series of post-doctoral research fellowships at the City University of New York Graduate Center where he worked closely with the geographers Neil Smith and David Harvey; and has held fellowships from the Open Society Institute, the Ford Foundation, and the Rockefeller Brothers Foundation, "The Case for EPA Action," 4-20-10, www.npr.org/templates/story/story.php?storyId=126129216, accessed 2-9-14]

On April 1 the Environmental Protection Agency established rules restricting greenhouse gas emissions from cars and trucks, starting in 2012. This is the first of what could become a sweeping series of regulations stemming from the agency's conclusion that greenhouse gases harm human health. If the EPA were to act robustly, it could achieve significant and immediate greenhouse gas emissions reductions using nothing more than existing laws and current technology. Doing so would signal to a waiting world that America is serious about addressing climate change. But a dangerous assault on the agency is gathering momentum in Congress, corporate boardrooms, the media and the courts. The swarm of counterattacks all seek to strip the EPA of its power to regulate greenhouse gas emissions from stationary sources like coal-fired power plants. Some legislative proposals would even undo the EPA's finding that greenhouse gases are hazardous, taking the EPA out of the climate fight altogether. Wonkish at first glance, the fight over EPA rulemaking may be the most important environmental battle in a generation. The UN's Intergovernmental Panel on Climate Change says rich countries like the United States must cut emissions 25 to 40 percent below 1990 levels by 2020—only ten years away—and thereafter make precipitous cuts to almost zero emissions. If we don't act now, average global temperatures will likely increase by more than 2 degrees Celsius and trigger self-compounding runaway climate change, resulting in a massive rise in sea levels, devastated agriculture and attendant social chaos. Not one of the climate change bills up for discussion meets this threshold, and it is looking increasingly unlikely that Congress will be able to pass any comprehensive climate change legislation this session. The failures of Congress and the harrowing facts of climate science mean that aggressive and immediate EPA action is essential. From a legal perspective, the EPA has all the tools it needs to respond adequately to the climate crisis. In fact, "the United States has the strongest environmental laws in the world," says Kassie Siegel, an attorney with the Center for Biological Diversity. The center specializes in suing the government when it violates green laws. "We don't need new legislation. The Clean Air Act can achieve everything we need: a 40 percent reduction of greenhouse gas emissions over 1990 levels by 2020." The two most important things the EPA can do are to halt any permitting of new coal-fired power plants—about fifty new plants are seeking approval—and to force all existing coal-fired facilities to make the technologically feasible switch to natural gas. If this "fuel switching" happened, total nonvehicle US emissions would be reduced by 13 percent or more in a matter of a year or two, say various experts. Natural gas is generally half as polluting as coal. But in the case of old, inefficient coal-fired plants, switching to gas can reduce emissions by as much as two-thirds. And there is plenty of natural gas: discoveries have glutted the market, and prices are down more than 60 percent from their recent peak. Gas is not a solution; it merely offers a realistic "bridging fuel" as we move toward power generated from wind, solar, geothermal and hydro sources. Perhaps the most far-reaching impact of EPA regulation would be to put a de facto price on carbon by leveling fines on greenhouse gas polluters. Such penalties could reach thousands per day, per violation. If targets for emissions reductions are tough enough, few coal plants will be able to meet them and will instead pay fines—what amounts to a carbon tax. Then a cheap source of energy would become expensive, which would drive investment away from fossil fuels toward carbon-neutral forms of energy.

**Clean tech solves- spills over globally**

Kammen, 7 – UC Berkeley public policy professor

[Daniel, 9/25/’7,http://docs.cpuc.ca.gov/eeworkshop/CPUC-new/summit/docs/Kammen\_Senate\_EPW-9-26.pdf]

In addition to supporting domestic job creation, clean energy is an important and fastest growing international sector, and one where overseas policy can be used to support poor developing regions – such as Africa (Jacobsen and Kammen, 2007) and Central America – as well as regaining market share in solar, fuel cell and wind technologies, where European nations and Japan have invested heavily and are reaping the benefits of month to year backlogs in clean energy orders. Some of those orders are for U. S. installations, but many more could be if we choose to make clean and green energy a national priority for both domestic installation and overseas export. Technology exports have impacts well beyond domestic job creation. In fact, if properly managed, the development of a thriving ‘cleantech’ sector can address a vital global issues, namely the emissions trajectories of major developing nations. China and India are often singled out for attention as major, emerging global emitters. China, in fact, will become the world’s largest greenhouse emitter in the near future, if it has not already. This fact, is often used – mistakenly in my view – to argue against unilateral climate protection efforts by nations such as the United States. This view is shortsighted in two vital respects. First, China is demonstrably already suffering from the impacts of fossil fuel use. Crop yields in many parts of China are significantly lower than they would be without the significant sulfur and particulate burden that results from domestic coal combustion. (In fact, coal combustions emissions from China have significant air quality impacts on Japan, and can be measured in the U. S. as well.) Crop losses of over 20% have been reported in part of China, with the decrease unambiguously linked to air pollution. China also experiences significant human health impacts from this pollution burden as well. Second, China has committed, on paper, to a ‘circular economy’ where waste is reduced and overall productivity is enhanced. If the United States were to become a major exporter, or even a partner, in the production of low-emissions technologies – from truly carbon-capture coal-fired power plants, to increased numbers of solar, wind, and biofuel technologies – China would be an eager trading partner, so that they could install increasing numbers of low-emissions technologies. This would directly help the Chinese economy and their environmental and public health situation. On both of these grounds, U. S. domestic expansion of the clean energy sector will likely positively impact the ability and the actions of a number of emerging economies to ‘go green’.

## PIC

### Competition

#### The PPWT includes ANY use of force against a space object

Jinyuan Su (The Silk Road Institute of International Law, School of Law, Xi'an Jiaotong University, China, Visiting Fellow, The Lauterpacht Centre for International Law, University of Cambridge, UK) May 2010 “The “peaceful purposes” principle in outer space and the Russia–China PPWT Proposal” Space Policy, Volume 26, Issue 2, May 2010, Pages 81–90

The gap in the OST could be filled either by working out an additional protocol, or by drafting a new treaty like the PPWT. While both approaches would require an equivalent level of consensus, a separate treaty would entail stronger, more focused and detailed obligations. The lesson drawn from the failure of the USSR to introduce a similar treaty at the General Assembly in the early 1980s,52 is that an international treaty aimed at safeguarding the tranquility of outer space should ban weapons in space and ASATs on Earth in parallel. The PPWT is one such proposal, although it is fair to say that these twin tasks have not yet been equally addressed. The core provision of the PPWT is Article II, which reads:¶ The States Parties undertake not to place in orbit around the Earth any objects carrying any kinds of weapons, not to install such weapons on celestial bodies and not to place such weapons in outer space in any other manner; not to resort to the threat or use of force against outer space objects; and not to assist or induce other States, groups of States or international organizations to participate in activities prohibited by this Treaty.¶ The negative undertakings embodied in the PPWT were explained as the idea of “zero-weapon outer space” by the Chinese Delegation at the UNIDIR Conference on Space Security in Geneva, 15 June 2009:¶ The meaning of zero-weapon outer space is three-fold. Firstly, countries do not place any weapon in outer space, either offensive or defensive. In other word, there shall be no space-based weapons. Secondly, countries do not use force against outer space objects. Such force may come from ground-based, sea-based, or air-borne weapons, or even from hostile activities of certain space objects other than space-based weapons. Thirdly, countries do not threaten to use force against outer space objects. This may include test of weapons in outer space or against space objects as well as other hostile activities endangering space objects. 53

#### Err negative on competition – no legal definition guarantees that absolute certainty about excluding them is impossible – only the counterplan avoids the net benefit

Virgiliu Pop (Space Lawyer, Romanian Space Agency) 2013 “Legal Considerations on Asteroid Exploitation and Deflection” p. 664

Given that, as shown supra, the notion of celestial bodies is not legally defined.¶ it could he argued that several asteroids might escape the non-appropriation principle because of this lacuna. The issue of defining celestial bodies is extremely¶ intricate, and there is no absolute answer to be given ex cathedra. We have only¶ attempted to present the existing theories and some new approaches. but at the end¶ of the day only practice will decide whether (some asteroids are places or¶ movables)

#### “celestial bodies” include asteroids, comets, and meteors

Virgiliu Pop (Space Lawyer, Romanian Space Agency) 2013 “Legal Considerations on Asteroid Exploitation and Deflection” <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CEMQFjAC&url=http%3A%2F%2Fwww.montgomeryschoolsmd.org%2FuploadedFiles%2Fschools%2Fforestknollses%2Fmediacenter%2Fcelestrial%2520bodies2%2520final.ppt&ei=y-E2U4-GE5CnsASSmIGQDw&usg=AFQjCNEbZM3P-J5Lp4lLxLFhm_UMHwClXg&sig2=DRp8ewLxFvT9ixTRVTlGfA>

Do scientists know all about our galaxy, the Milky Way? No. There is much that waits to be discovered. This PowerPoint show focuses on celestial bodies. Celestial bodies are constellations, comets, meteors, asteroids, galaxies, and basically everything in space.

### Solves weaponization

#### CP doesn’t require weaponization- existing nukes solve

**Birch ’13** [Douglas Birch, Pulitzer Prize finalist and veteran foreign correspondent, was a Knight science journalism fellow at MIT, served as the Moscow bureau chief for the Associated Press and spent 22 years at the Baltimore Sun, was the AP’s diplomatic and military editor in Washington, “The Plans to Use Nuclear Weapons to Blow Up Incoming Asteroids,” Oct. 16, http://www.theatlantic.com/technology/archive/2013/10/the-plans-to-use-nuclear-weapons-to-blow-up-incoming-asteroids/280593/]

Dearborn says there is that no need to develop new weapons and therefore no testing would be required. “The current, existing devices that we have provide all of the energy that is necessary,” he said. But he acknowledged that a large asteroid close to hitting Earth would probably require a weapon with the yield of about a megaton, one million tons of TNT, roughly the largest in the current U.S. arsenal.

### Solves Russia

#### Russia is cooperating on asteroid deflection

**Mick ’13** [Jason, “Russia, U.S. Eye Team-up to Build Massive Nuke to Save Planet from an Asteroid,” October 17, http://www.dailytech.com/Russia+US+Eye+Teamup+to+Build+Massive+Nuke+to+Save+Planet+from+an+Asteroid/article33569.htm]

But despite its possibility to breach international treaties, the Obama administration has come to support the nuclear idea. Last month the U.S. Secretary of Energy Ernest Moniz and Russian nuclear agency (Rosatom) Director Sergey Kirienko signed a shadowy agreement to collaborate on "defense from asteroids" and other topics. The 47-page document, published in both English and Russian was not made public, but the Center of Public Integrity managed to obtain a copy and make it publicly available.

### Solves China

#### China cooperates on asteroids

**Krepon ’13** [Michael Krepon is co-founder of the Stimson Center, “U.S. Space Cooperation with China,” July 8, http://www.spacenews.com/article/opinion/36172us-space-cooperation-with-china]

Presidents Obama and Chinese President Xi Jinping spent the better part of two days in June out of the public glare discussing ways to successfully manage the mix of cooperation and competition between the United States and China. Press reports of their deliberations include no mention of discussions about space cooperation. If true, this reflects a poverty of imagination among their advisers and an agenda that is too filled with contentious issues to include a bold cooperative venture in space. ¶ While there is no shortage of issues requiring sound management of U.S.-Chinese relations — including cyberespionage, maritime and island disputes, and proliferation concerns — this list pales in comparison with what Kennedy and Khrushchev were up against. Or for that matter, what President Richard Nixon and Soviet leader Leonid Brezhnev had to contend with when they agreed to the Apollo-Soyuz docking. ¶ A joint venture in space between the United States and China does not need to be as expensive or as high-profile as the Apollo-Soyuz docking to have significant symbolic and substantive value. Joint efforts to monitor climate change, space weather, planetary threats from asteroids, and other useful initiatives can be identified. As was the case during the Cold War, cooperative ventures in space can dampen competitive pursuits on Earth. President Kennedy’s recipe is waiting to be replicated.

## Case

### Solvo – and even if they are, it’s too limited

#### Plan is too limited- terrestrial ASAT testing and storage trigger their impacts

Su ‘10 (Jinyuan, The Silk Road Institute of International Law, School of Law, Xi'an Jiaotong University, China, Visiting Fellow, The Lauterpacht Centre for International Law, University of Cambridge, UK) May, “The “peaceful purposes” principle in outer space and the Russia–China PPWT Proposal” Space Policy, Volume 26, Issue 2, May 2010, Pages 81–90

In a nutshell, the PPWT does not ban the research, development, production and storage of space-based ASATs and terrestrial-based ASATs (nor in the latter case deployment, or, arguably, testing against cooperative orbital targets, either). This is regarded by the USA as a threat to its national security interest by providing other states with an opportunity to build a breakout capability.78 The USA's worries are understandable, but not irremediable. There are two ways of dealing with them.¶ First, revising the PPWT to the extent of explicitly prohibiting ASATs is not impossible. Both Russia and China have realized that a separate provision banning ASATs is a possible additional element of the PPWT.79 China has also expressed the position that it is open to proposals such as a world-wide ban on ASATs, which is in line with the PPWT and could be well incorporated into the document.80 A question still exists as to what extent ASATs should be prohibited. The Russia–China position is one of prohibiting actions against space objects, rather than the means to exercise such actions. 81 Focusing on restricting dangerous behavior rather than on technology is for ease of verification. 82 The USA, on the other hand, would expect more complete prohibitions.¶ Second, the **testing, storage and deployment of ASATs could be interpreted as a threat of force** against space objects under Article II of the PPWT, or as against the object and purpose of the draft treaty. For example, to the USA, the deployment of terrestrial-based ASATs is prohibited by the PPWT, because it would undermine its object and purpose and would make Article II's prohibitions irrelevant to the extent that terrestrial-based ASATs could perform the functions of space-based ASATs.83

#### Vague treaty language means they can’t solve

Jinyuan Su (The Silk Road Institute of International Law, School of Law, Xi'an Jiaotong University, China, Visiting Fellow, The Lauterpacht Centre for International Law, University of Cambridge, UK) May 2010 “The “peaceful purposes” principle in outer space and the Russia–China PPWT Proposal” Space Policy, Volume 26, Issue 2, May 2010, Pages 81–90

The message is clear: attaining space dominance is illusive; ASAT tests, like space weapons, are not explicitly prohibited by international treaties; and we need an international treaty safeguarding the peaceful use of outer space. Testing against one's own satellite must be banned, or at least regulated, in light of political and environmental concerns. But a provision should be established to accommodate the legitimate need to bring down one's own satellite, e.g. for the purposes of elimination of threat to other space objects. In similar situations this must be done in observance of, e.g. the Inter-Agency Space Debris Coordination Committee's (IADC) Debris Mitigation Guidelines, which were endorsed by COPUOS in 2007 and are now regarded as a model for a broader set of “Best Practice Guidelines”.¶ The clarification of these definitions is significant, because, absent clear definitions, there is a risk that charges of non-compliance would be a recipe for never-ending international dispute: what one nation might see as legitimately preparing to ensure its “right to self-defense” may be seen by another as “a threat”.91