# CP- Hate Speech (Ilaw)

## 1NC

### Notes

Read the AT: Perm card in the 1NC if the 1AC says “hate speech not protected”

### 1NC- PIC

#### Text: The United States federal government should allow the United States to enter into full compliance with the International Covenant on Civil and Political Rights, including Article 20 AND Public Colleges and universities in the United States ought not restrict any constitutionally protected speech except for hate speech, defined according to Article 20 of the International Covenant on Civil Rights

#### The counterplan creates a precise test for balancing free speech with human dignity—this is key to ensuring equality—reject the aff’s free speech absolutism

**Catlin 14** [Scott Catlin (J.D. cum laude at Notre Dame Law School). “Proposal for Regulating Hate Speech in the United States: Balancing Rights under the International Covenant on Civil and Political Rights.” Notre Dame Law Review, vol. 69, issue 4. March 2014. http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1971&context=ndlr]

The United States has demonstrated that it too holds international human rights standards to be overriding in their importance and influence. 9 Historically, international norms and treaties were of paramount significance to the Framers of the Constitution, and under their natural law ideals they advocated the incorporation of such fundamental principles into domestic law as binding precedent.'92 While the relative willingness of United States courts to incorporate international norms into domestic law has gone through several cycles, there is little doubt that, in proper situations, such norms may be employed as interpretive tools. 93 Thus, the use of international norms, such as those evidenced by the ICCPR, as interpretive principles in domestic law would comport with the Framer's intent and with judicial practice and precedent. 4 The ICCPR "can [and should] be used by state and federal courts to interpret or clarify constitutional or legislative standards."'95 In cases where domestic laws are unclear and open to definitional argument, the ICCPR, as a customary norm of international human rights law, should be used to inform the United States courts' determinations of the meaning and application of those laws. Thus, the international approach to hate speech can be incorporated as a customary norm into our First Amendment jurisprudence. The international approach to limiting hate speech would not usurp our strong protection of free speech, but rather would supplement our approach with due consideration for the rights of the listener-the unprotected victim under current United States law. 96 It requires a refocusing of the balancing process in the international manner towards antidiscrimination and equality,19 while maintaining the high stature of free speech. The First Amendment to the United States Constitution is broad in its language, as is Article 20 of the ICCPR.195 Thus, even though the new approach, using both free speech protection and hate speech regulation, is applicable and beneficial to our society, a major problem remains-how can such broad principles be implemented in the United States without promoting judicial or government censorship? V. AN ALTERNATIVE SOLUTION A solution to the problem of hate speech requires recognition of the importance of freedom of expression, and at the same time condemnation of hate speech as inconsistent with community living and proper respect for human dignity. The conclusion derived from the above comparison of approaches is that the balancing approach, utilizing the positive aspects of both the United States and international systems, must be incorporated into our free speech jurisprudence.'99 It can, and will, better protect the rights of all members of society. Specifically, the rights of the speaker and the listener must be equally recognized and protected.2 "' Such equal protection can only be realized by closely examining and balancing the actions, reactions, and rights of both sides of the hate speech confrontation."' The United States can be seen as an advocate for absolutist protection of almost all speech, and specifically hate speech." 2 The ICCPR, while not advocating absolute protection of any one right, can be seen as an advocate for hate speech prohibition."' As in the ideal adversarial trial, the opposing advocates present the extremes, and somewhere between them lies the truth, or here, the solution to the hate speech dilemma. The middle ground, where the balancing. approach can best be used, rests in the overlap of the exceptions to the United States absolutist approach-"fighting words" and incitement to illegal conduct-and the "incitement" concept of Article 20 of the .ICCPR.2° Both speak to "incitement," whether it be incitement to violence, hostility, or discrimination.0" Incitement to any of these is detrimental to society and public order, and thus each should be uniformly condemned. 2 1 6 "Fighting words" doctrine looks to the reaction of a listener to a face-to-face attack," 7 while Article 20 provides an individual the right not to be confronted with hate speech. The focus is on the reactions of listeners-victims and bystanders. Thus, the listener is explicitly included in the balancing of rights by both approaches. This common ground of considering listener reaction, then, provides the basis for informing the overall protection of free speech with a respect for the rights of hate speech victims. It is here that the international balancing approach can be incorporated into United States jurisprudence as an interpretive tool0. for the definition and evolution of "fighting words." By maintaining our general free speech protection, while specifically looking to "fighting words" and Article 20 jurisprudence for guidance on hate speech victim protection, several factors..9 may be distilled out of the process. These factors can then be used in a narrow balancing test for defining proscribable hate speech. Once it is shown that hate speech is indeed involved-a showing that speech advocating or inciting hatred, violence or discrimination based on race, nationality, religion, gender, or ethnicity has in fact been uttered2 10 -the factors should include: (1) the intent of the speaker; (2) how closely the speech was directed at a specific person or group, at the time of its utterance; (3) the response actually induced in the listener; (4) the government's interest in protecting the speech;21 ' and (5) whether there is any other reasonable use or purpose of the speech for which it should be protected.212 The balance of these factors will define the outcome. The interests of the listener, the speaker, society, and the state are all balanced on the scale of justice in the context of the hate speech confrontation. The freedom and dignity of both listener and speaker must be equally protected. These factors, whether it be intent or the interests involved, have been developed in various areas of United States jurisprudence.213 They collectively entail a generous respect for the speaker's right to speak, as seen in the consideration of the interests for protection, as well as the listener's right not to be confronted with hate speech. The jurisprudence of other signatory nations to the ICCPR-especially Canada and Germany" –in adjudicating Article 20 matters also informs the elements of the test.21 The critical element that is added to the current inadequate United States approach to hate speech regulation, as depicted in R.A.V., is proper consideration for the victim-listener's reaction and rights.217 Respect for the basic dignity and rights of all human beings is the indispensable factor. The balance of these factors weighed together in good faith, with general free speech protections still in place,1 8 should sufficiently protect our freedom of speech, especially in light of our rightly continued general disdain for limitations on speech. Regardless of the specific test that is developed to deal with the hate speech problem, though, it is of the utmost importance that the United States accept the international balancing of rights as a modification of our unreasonable absolutist approach. Ultimately, this must be the beginning of any solution to the hate speech problem.

#### Equality comes first--it’s accepted by all moral theories

**Gosepath 11 [**Gosepath, Stefan, "Equality", The Stanford Encyclopedia of Philosophy (Spring 2011 Edition), Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/spr2011/entries/equality/>.]

The principle of equal dignity and respect is now accepted as a minimum standard throughout mainstream Western culture. Some misunderstandings regarding moral equality need to be clarified. To say that men are equal is not to say they are identical. The postulate of equality implies that underneath apparent differences, certain recognizable entities or units exist that, by dint of being units, can be said to be ‘equal.’ (Thomson 1949, p. 4). Fundamental equality means that persons are alike in important relevant and specified respects alone, and not that they are all generally the same or can be treated in the same way (Nagel 1991). In a now commonly posed distinction, stemming from Dworkin (1977, p. 370), moral equality can be understood as prescribing treatment of persons as equals, i.e., with equal concern and respect, and not the often implausible principle of treating persons equally. This fundamental idea of equal respect for all persons and of the equal worth or equal dignity of all human beings (Vlastos 1962) is accepted as a minimal standard by all leading schools of modern Western political and moral culture. Any political theory abandoning this notion of equality will not be found plausible today. In a period in which metaphysical, religious and traditional views have lost their general plausibility (Habermas 1983, p. 53, 1992, pp. 39-44), it appears impossible to peacefully reach a general agreement on common political aims without accepting that persons must be treated as equals. As a result, moral equality constitutes the ‘egalitarian plateau’ for all contemporary political theories (Kymlicka 1990, p.5). To recognize that human beings are all equally individual does not mean having to treat them uniformly in any respects other than those in which they clearly have a moral claim to be treated alike. Disputes arise, of course, concerning what these claims amount to and how they should be resolved. That is the crux of the problem to which I now turn.

### 1NC- CP

### 1NC- Ilaw NB

#### The US’s Article 20 reservation enables us to ignore the ICCPR’s prohibition on hate speech—the counterplan is key to full compliance which solves American hypocrisy and restores human rights leadership

**Catlin 14**

Scott Catlin (J.D. cum laude at Notre Dame Law School). “Proposal for Regulating Hate Speech in the United States: Balancing Rights under the International Covenant on Civil and Political Rights.” Notre Dame Law Review, vol. 69, issue 4. March 2014. http://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=1971&context=ndlr

C. United States Obligations Under the ICCPR Generally, when the United States ratifies a treaty, that treaty becomes the "supreme law of the land," with power equivalent to that of a federal statute, although ultimately subordinate to the Constitution.'54 International treaties create not only international obligations, but may also become part of domestic law, enforced by federal statutes and the President.'55 Article 2 of the ICCPR defines the substantive obligations of signatory states.'56 A signatory nation must "respect and ensure" the individual and community rights provided for in the ICCPR, and it must provide effective remedial, adjudicatory and enforcement procedures for violations of those rights. 57 The obligation to "respect" the rights designated in the ICCPR simply entails the government not violating those rights."'8 The obligation to "ensure" connotes affirmative action by the state to enable individuals to enjoy and exercise those rights. 59 To "ensure" requires not only limits on the government, but also on private individuals, to some extent, to prohibit them from inhibiting the exercise of the Covenant rights of others.' 60 Thus, under the terms of the ICCPR, the United States 'should be obligated to "respect and ensure" the rights of citizens as defined in the ICCPR-not only freedom of speech, but also freedom from hate speech. As illustrated in Article 20, hate speech restrictions and a process for their adjudication, remedy, and enforcement should be provided by law. However, this is not the case in the United States. How is that possible? The answer, or at least a justification, lies in the reservations, understandings, and declarations that the United States made in ratifying the ICCPR. D. United States Reservations Even without reservations.6 and other treaty limitations, the United States approach to domestic treaty implementation is less straightforward and clear than Article VI of the Constitution suggests: "This Constitution ... and all Treaties made .. .under the Authority of the United States, shall be the supreme Law of the Land . \*...""' This language clearly states that upon signing a treaty, its provisions should automatically become the binding "Law of the Land"-binding domestic law. However, "[g]iven the isolationist bent of the American legal system, it is unlikely that international human rights law will generally be deemed to be directly incorporated into U.S. law." 6' The government of the United States ,prefers to have more discretion in implementing international treaties domestically than Article VI of the Constitution facially seems to allow. This preference is advanced by the judicial doctrine of "self-executing treaties,"'' which often prevents the direct incorporation of such international documents into domestic law. If a treaty is considered to be "non-self-executing," 5 then congressional legislation is required to give it domestic force. The United States Senate declared the ICCPR a non-self-executing treaty. 66 The declaration notifies the courts that they cannot use the ICCPR directly until Congress and the Executive Branch pass legislation allowing such action. This effectively removes implementation of the ICCPR from the judiciary and places it in the hands of the Executive and Legislative branches.'67 The decision to make the ICCPR non-self-executing was driven by Congressional fear of excessive litigation of the vague wording of the ICCPR as well as a preference not to use the unicameral treaty power under Article VI of the Constitution to change domestic law." Thus the United States uses a dichotomous approach to the implementation of its international human rights agreements; it accepts its full obligations internationally, but reserves the option to only partially implement them domestically. 69 Thus, even while joining the international community under the ICCPR, the United States provides itself with an escape hatch to maintain its domestic protection of hate speech in violation of the treaty. Additionally, the United States made direct reservations to Article 20 of the ICCPR in order to preserve its quasi-absolutist protection of free speech, including hate speech.70 The reservation to Article 20 clearly states that the ICCPR will not be allowed to restrict our freedoms of speech and expression, as we have defined them in such cases as R.A. V... The reservation generally defines the United States approach, stating that our quasi-absolut- 'ist protection of free speech, even hate speech, will not be tainted or limited by international norms, even though we pay lip service to the ICCPR and the cause of international human rights. 72 The reservation eviscerates Article 20, at least as far as implementing any direct domestic legislation. Generally, international law contains few restrictions on reservations. The major limits on reservations depend on the reactions of other signing nations, and on the compatibility of the reservation with the object and purpose of the treaty and customary international law in general. 73 Other countries have similarly reserved out of Article 20, and no countries have objected vigorously to the reservations. 4 Objections generally are rare, in fact, and "the compatibility rule does not apply when states accept reservations."" In addition, the compatibility rule is unclear and difficult to apply." 6 Thus, it is unlikely that the United States reservation to Article 20 will be challenged or ruled incompatible with the ICCPR; instead, it will remain valid under international law.177 However, the non-self-executing declaration and the Article 20 reservation do not necessarily foreclose further inquiry into the application of the ICCPR in the United States. Even the Senate has expressed views not quite as hostile and permanent as the reservations and declarations suggest. The Senate Committee on Foreign Relations extolled the virtues of "adhering to internationally recognized standards of human rights," and stated that the approach of the United States government "does not preclude the United States from modifying its obligations under the Covenant in the future if changes in U.S. law allow the United States to come into full compliance."'78 Thus, the door is not fully closed to the ICCPR; the United States could adhere to Article 20 and the ICCPR more fully with genuine benefits both domestically and internationally.'79 Additionally, by fully complying with the ICCPR, especially as to the hate speech prohibitions of Article 20, the United States can rid itself of the hypocrisy of its current dichotomy of domestic and international postures. 8 ' The United States can better exercise its world leadership role in human rights, and it can learn something from the rest of the world. 8 '

**US human rights cred is key to soft power and global human rights protections**

**Koh 9**

Harold Hongju Koh (Dean and Gerard C. and Bernice Latrobe Smith Professor of International Law at Yale Law School). “Speech: Repairing Our Human Rights Reputation.” Western New England Law Review. Originally delivered at the Western New England College School of Law on Sept. 9, 2008. Lexis Nexis.

Since all of us have been alive, our country, the United States, has been the world's acknowledged human rights leader. That is certainly why my parents came here, and probably yours as well. Since World War II, ours was universally regarded as a nation that values human rights and the rule of law, that speaks out against injustice and dictatorship, and that tries to practice what we preach. Of course we have never been perfect, but we have usually been thought to be sincere. When I was a diplomat for the United States government, I was always struck by how seriously other countries would listen to what Americans had to say. They listened to us because we were powerful, sure, but they thought us powerful because they thought we were principled. Our commitments to principles of human rights and the rule of law were seen as a **major source of our soft power**. [\*12] But in the last few years, sadly, **much of this has changed**. I travel a lot. Maybe you do too. And if you have traveled abroad in the last few years, you cannot help but notice the steady decline of our global human rights reputation. In the last seven years, we have gone from being viewed as the major supporter of the international human rights system to its major target. Our obsessive focus on the War on Terror has taken an extraordinary toll upon our global human rights policy. Seven years of defining our human rights policy through the lens of the War on Terror has clouded our human rights reputation, given cover to abuses committed by our allies in that War, and blunted our ability to criticize and deter gross violators elsewhere in the world. After September 11, 2001, we were properly viewed with universal sympathy as victims of a brutal attack. But we have responded with a series of unnecessary, self-inflicted wounds, which have gravely diminished America's standing as the world's human rights leader. You know the list as well as I do: the horror of Abu Ghraib; our disastrous policy on Guantanamo; our tolerance of torture and cruel treatment for detainees; our counterproductive decision to create military commissions; warrantless government wiretapping; our attack on the United Nations and its human rights bodies, including the International Criminal Court; and the denial of habeas corpus for suspected terrorist detainees that, thankfully, was struck down this past summer by a narrow majority of the United States Supreme Court. Whatever you may think of these policies, there can be little doubt that the impact on our human rights reputation has been devastating. In a recent Pew Global Attitudes survey, favorable opinions of the United States had fallen in most of our fifteen closest allies - including Spain, India, and Indonesia - even though those polled largely shared our views as to the greatest dangers in the world. n1 And in these countries, amazingly, America's continuing presence in Iraq is cited as a danger to world peace at least as often as the growing threat of Iran. n2 Today, a vast majority of our allies believe that our policies on Guantanamo are illegal. And a recent foreign policy survey showed that many Americans believe that the [\*13] ability of the United States to achieve its foreign policy goals has decreased significantly over the last few years and that improving America's standing in the world should become a major goal of U.S. foreign policy. n3 When I was Assistant Secretary for Human Rights in 1999, I told a United Nations body that the United States is "unalterably committed to a world without torture." n4 That was not a casual statement; I had cleared that statement with every relevant agency of the United States government. But, in just a few short years, we seem to have gone from what was a zero-tolerance policy toward torture to what now seems to be a zero-accountability policy. Increasingly, that problem afflicts our popular culture. The New Yorker magazine reports that before September 11th, there were only four torture scenes on television each year; after September 11th, the average rose to at least one hundred torture scenes a year, with United States government officials regularly shown as justifiably committing crimes against humanity. n5 On the popular television show 24, American officials are seen committing torture nearly every week. The question we should ask ourselves is: "is torture really making us safer?" After all, 24 is widely exported by DVD to the Middle East. n6 If millions of television watchers in that region think that Americans routinely torture detainees, why should we expect them to act differently toward their detainees, who may in time come to include our own citizens and soldiers? And what impact does this have on our ability to help solve the acute problems around the world, especially in the Middle East? The Washington Post recently noted that the United States is no longer a player "across the board" in the Middle East. n7 More countries [\*14] in the region simply do not listen to us anymore, and openly make moves that go against our stated policies and strategy. So this is our problem: how to repair our tarnished human rights reputation. As a nation, and as families, we face many problems - the price of gas, housing, and food, just to name a few - but as a law dean and human rights lawyer, let me ask you not to ignore what I think is the most serious problem facing Americans today. The reason is simple. Since World War II, our country has been the balance wheel of the global human rights system because **our reputation for human rights principles and commitment to law made us the engine that drove the global human rights system**. In the post-Cold War world, from the fall of the Berlin Wall to the fall of the Twin Towers, we tried to revive the human rights system - in the Balkans, in Sierra Leone, in East Timor, in The Hague. But since September 11th, the post-post Cold War era has seen us too often siding with Pakistan in defending torture, siding with China in defending arbitrary detentions of Uighur Muslims, and siding with Russia in defending human rights abuses against Chechens as part of the "War on Terror." When our human rights system loses its balance, why should we be surprised when the world seems to go out of whack? And so, in the last few months, we have witnessed the constitutionalization of emergency rule in Egypt, the loss of democracy in Pakistan, stolen elections in Zimbabwe and Burma, and United States government officials who refuse to say that waterboarding is torture, even when it is committed by foreign countries against our own troops. n8 As Tom Friedman of the New York Times recently noted, last year was by far the worst year for freedom in the world since the end of the Cold War. n9 Freedom House reports that almost four times as many states declined in their freedom scores as improved. n10 And note this: among the least democratic countries in the world are those who derive most of their revenues from oil. So [\*15] as the price of fuel rises, and with it the price of food, we must cut our reliance on fossil fuels not just to save money, not just to protect the environment, not just to promote our national security, but to promote the rule of law by reducing our dangerous dependence on a commodity that strengthens petro-dictators and weakens democracy worldwide.

**Soft power solves multiple scenarios for extinction**

**Hamre 7**

John Hamre (specialist in international studies, a former Washington government official and President and CEO of the Center for Strategic and International Studies, a position he has held with that think tank since January, 2000). “Restoring America’s Inspirational Leadership.” Forward, CSIS Commission on Smart Power, co-chairs Richard Armitage and Joseph Nye, Jr. 2007. http://csis.org/files/media/csis/pubs/071106\_csissmartpowerreport.pdf

There is a moment of opportunity today for our political leaders to strike off on a big idea that balances a wiser internationalism with the desire for protection at home. Washington may be increasingly divided, but Americans are unified in wanting to **improve their country’s image** in the world and their own potential for good. We see the same hunger in other countries for a more balanced American approach and revitalized American interest in a broader range of issues than just terrorism. And we hear everywhere that any serious problem in the world demands U.S. involvement. Of course, we all know the challenges before us. The center of gravity in world affairs is shifting to Asia. The threat America faces from **nuclear proliferation, terrorist organizations with global reach, and weak and reckless states cannot be easily contained** and is unlikely to diminish in our lifetime. As the only global superpower, we must manage multiple crises simultaneously while regional competitors can focus their attention and efforts. A globalized world means that vectors of prosperity can quickly become vectors of insecurity. These challenges put a premium on strengthening capable states, alliances, partnerships, and institutions. In this complex and dynamic world of changing demands, we greatly benefit from having help in managing problems. But we can no longer afford to see the world through only a state’s narrow perspective. Statehood can be a fiction that hides dangers lurking beneath. We need new strategies that allow us to contend with non-state actors and new capabilities to address faceless threats—like **energy insecurity, global financial instability, climate change, pandemic disease**—that know no borders. We need methods and institutions that can adapt to new sources of power and grievance almost certain to arise. Military power is typically the bedrock of a nation’s power. It is understandable that during a time of war we place primary emphasis on military might. But we have learned during the past five years that this is an inadequate basis for sustaining American power over time. America’s power draws just as much from the size of its population and the strength of its economy as from the vitality of our civic culture and the excellence of our ideas. These other attributes of power become the more important dimensions. A year ago, we approached two of our trustees—Joe Nye and Rich Armitage—to chair a CSIS Commission on Smart Power, with the goal of issuing a report one year before the 2008 elections. We imposed the deadline for two reasons. First, we still have a year with the Bush presidency wherein these important initiatives can be furthered. Second, looking ahead to the next presidency, we sought to place before candidates of both parties a set of ideas that would strengthen America’s international standing. This excellent commission has combined that essential American attribute—outlining a truly big idea and identifying practical, tangible actions that would help implement the idea. How does America become the welcomed world leader for a constructive international agenda for the twenty-first century? How do we restore the full spectrum of our national power? How do we become a smart power? This report identifies a series of specific actions we recommend to set us on that path. CSIS’s strength has always been its deep roots in Washington’s defense and security establishment. The nature of security today is that we need to conceive of it more broadly than at any time before. As the commission’s report rightly states, “Today’s central question is not simply whether we are capturing or killing more terrorists than are being recruited and trained, but whether we are providing more opportunities than our enemies can destroy and whether we are addressing more grievances than they can record.” There is nothing weak about this approach. It is pragmatic, optimistic, and quite frankly, American. We were twice victims on 9/11. Initially we were victimized by the terrorists who flew airplanes into buildings and killed American citizens and foreigners resident in this country. But we victimized ourselves the second time by losing our national confidence and optimism. The values inherent in our Constitution, educational institutions, economic system, and **role as respected leader on the world stage** are too widely admired for emerging leaders abroad to turn away for good. By becoming a smarter power, we could bring them back sooner. What is required, though, is not only leadership that will keep Americans safe from another attack, but leadership that can communicate to Americans and the world that the safety and prosperity of others matters to the United States. The Commission on Smart Power members have spoken to such a confident, inspiring, and practical vision. I am sure they will not be the last.

**US promotion of human rights norms solves war and WMD prolif**

**Burke-White 4**

William W. Burke-White (Lecturer in Public and International Affairs and Senior Special Assistant to the Dean at the Woodrow Wilson School of Public and International Affairs, Princeton University and Ph.D. at Cambridge). “Human Rights and National Security: The Strategic Correlation.” The Harvard Human Rights Journal, Spring, 17 Harv. Hum. Rts. J. 249, Lexis. 2004.

This Article presents a strategic--as opposed to ideological or normative--argument that the promotion of human rights should be given a more prominent place in U.S. foreign policy. It does so by suggesting a correlation between the domestic human rights practices of states and their propensity to engage in aggressive international conduct. Among the chief threats to U.S. national security are acts of aggression by other states. Aggressive acts of war may directly endanger the United States, as did the Japanese bombing of Pearl Harbor in 1941, or they may require U.S. military action overseas, as in Kuwait fifty years later. Evidence from the post-Cold War period [\*250] indicates that states that systematically abuse their own citizens' human rights are also those **most likely to engage in aggression**. To the degree that improvements in various states' human rights records decrease the **likelihood of aggressive war**, a foreign policy informed by human rights can significantly enhance U.S. and **global security**. Since 1990, a state's domestic human rights policy appears to be a telling indicator of that state's propensity to engage in international aggression. A central element of U.S. foreign policy has long been the preservation of peace and the prevention of such acts of aggression. 2 If the correlation discussed herein is accurate, it provides U.S. policymakers with a powerful new tool to enhance national security through the promotion of human rights. A strategic linkage between national security and human rights would result in a number of important policy modifications. First, it changes the prioritization of those countries U.S. policymakers have identified as presenting the greatest concern. Second, it alters some of the policy prescriptions for such states. Third, it offers states a means of signaling benign international intent through the improvement of their domestic human rights records. Fourth, it provides a way for a current government to prevent future governments from aggressive international behavior through the institutionalization of human rights protections. Fifth, it addresses the particular threat of human rights abusing states obtaining weapons of mass destruction (**WMD**). Finally, it offers a mechanism for U.S.-U.N. cooperation on human rights issues.

**Prolif causes extinction**

**Kroenig 15**

Matthew, Associate Professor and International Relations Field Chair in the Department of Government and School of Foreign Service at Georgetown University and a Senior Fellow in the Brent Scowcroft Center on International Security at The Atlantic Council, “THE HISTORY OF PROLIFERATION OPTIMISM: DOES IT HAVE A FUTURE?” <http://www.npolicy.org/books/Moving_Beyond_Pretense/Ch3_Kroenig.pdf>

WHY **NUCLEAR PROLIFERATION IS A PROBLEM** The spread of **nuc**lear weapon**s** poses a number of **severe threats** to international peace and U.S. national security, including **nuclear war**, **nuclear terrorism**, **global and regional instability**, **constrained freedom of action**, **weakened alliances**, and **further nuclear proliferation.** This section explores each of these threats in turn. Nuclear War. The greatest threat posed by the spread of nuclear weapons is **nuclear war**. The more states in possession of nuclear weapons, the greater the probability that somewhere, someday, there will be a catastrophic nuclear war. A nuclear exchange between the two superpowers during the Cold War could have arguably resulted in **human extinction**, and a nuclear exchange between states with smaller nuclear arsenals, such as India and Pakistan, could still result in **millions of deaths** and casualties, billions of dollars of **economic devastation, environmental degradation**, and a parade of other horrors. 71 To date, nuclear weapons have only been used in warfare once. In 1945, the United States used nuclear weapons on Hiroshima and Nagasaki, bringing World War II to a close. Many analysts point to the 65-plus year tradition of nuclear nonuse as evidence that nuclear weapons are unusable, but it would be naïve to think that nuclear weapons will never be used again simply because they have not been used for some time. After all, analysts in the 1990s argued that worldwide economic downturns like the great depression were a thing of the past, only to be surprised by the dotcom bubble bursting in the late-1990s and the Great Recession of late-2000s.53 This author, for one, would be surprised if nuclear weapons are not used again sometime in my lifetime. Before reaching a state of MAD, new nuclear states go through a **transition period** in which they **lack a secure second-strike capability**. In this context, one or both states might believe that it **has an incentive to use nuclear weapons first**. For example, if Iran acquires nuclear weapons, neither Iran, nor its nuclear-armed rival, Israel, will have a secure second-strike capability. Even though it is believed to have a large arsenal, given its small size and lack of strategic depth, Israel might not be confident that it could absorb a nuclear strike and respond with a devastating counterstrike. Similarly, Iran might eventually be able to build a large and survivable nuclear arsenal, but, when it first crosses the nuclear threshold, Tehran will have a small and vulnerable nuclear force. In these pre-MAD situations, there are at least three ways that nuclear war could occur. First, the state with the nuclear advantage might believe it has a splendid first strike capability. In a crisis, Israel might, therefore, decide to launch a preventive nuclear strike 72 to disarm Iran’s nuclear capabilities and eliminate the threat of nuclear war against Israel. Indeed, this incentive might be further increased by Israel’s aggressive strategic culture that emphasizes preemptive action. Second, the state with a small and vulnerable nuclear arsenal, in this case Iran, **might feel “use ‘em or loose ‘em” pressures**. That is, if Tehran believes that Israel might launch a preemptive strike, Iran might decide to strike first rather than risk having its entire nuclear arsenal destroyed. Third, as Thomas Schelling has argued, nuclear war could result due to the **reciprocal fear of surprise attack**.54 If there are advantages to striking first, one state might start a nuclear war in the belief that **war is inevitable** and that it would be **better to go first than to go second**. In a future Israel-Iranian crisis, for example, Israel and Iran might both prefer to avoid a nuclear war but decide to strike first rather than suffer a devastating first attack from an opponent. **Even in** a world of **MAD, there is a risk of nuclear war.** Rational deterrence theory assumes nuclear armed states are governed by rational leaders who would not intentionally launch a suicidal nuclear war. This assumption appears to have applied to past and current nuclear powers, but there is no guarantee that it will continue to hold in the future. For example, Iran’s theocratic government, despite its inflammatory rhetoric, has followed a fairly pragmatic foreign policy since 1979, but it contains leaders who genuinely hold millenarian religious worldviews and who could one day ascend to power and have their finger on the nuclear trigger. We cannot rule out the possibility that, as nuclear weapons continue to spread, some leader will choose to launch a nuclear war, knowing full well that it could result in self-destruction. 73 One does not need to resort to irrationality, however, to imagine a nuclear war under MAD. Nuclear weapons may deter leaders from intentionally launching full-scale wars, but they do not mean the end of international politics. As discussed previously, nuclear-armed states still have conflicts of interest, and leaders still seek to coerce nuclear-armed adversaries. This leads to the credibility problem that is at the heart of modern deterrence theory: How can you credibly threaten to attack a nuclear-armed opponent? Deterrence theorists have devised at least two answers to this question. First, as stated earlier, leaders can choose to launch a limited nuclear war.55 This strategy might be especially attractive to states in a position of conventional military inferiority that might have an incentive to escalate a crisis quickly. During the Cold War, the **U**nited **S**tates was willing to use nuclear weapons first to stop a Soviet invasion of Western Europe, given NATO’s conventional inferiority. As Russia’s conventional military power has deteriorated since the end of the Cold War, Moscow has come to rely more heavily on nuclear weapons in its strategic doctrine. Indeed, Russian strategy calls for the use of nuclear weapons early in a conflict (something that most Western strategists would consider to be escalatory) **as a way to de-escalate a crisis**. Similarly, Pakistan’s military plans for nuclear use in the event of an invasion from conventionally stronger India. Finally, Chinese generals openly talk about the possibility of nuclear use against a U.S. superpower in a possible East Asia contingency. **Second**, as was also discussed earlier, leaders can **make a “threat that leaves something to chance**.”56 They can initiate a nuclear crisis. By playing these risky games of nuclear brinkmanship, states can **increase the risk of nuclear war in an attempt to force a less resolved adversary to back down**. Historical crises have not resulted in nuclear war, but many of them, including the 1962 Cuban Missile Crisis, have come close. Scholars have documented historical incidents when accidents could have led to war.57 When we think about future nuclear crisis dyads, such as Iran and Israel, there are fewer sources of stability than existed during the Cold War, meaning that there is a very real risk that a future Middle East crisis could result in a devastating nuclear exchange.

#### Independently, credible US commitment to I-Law preserves global follow-on—that solves multiple scenarios for extinction

**IEER 2**

Institute for Energy and Environmental Research and the Lawyers Committee on Nuclear Policy. *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*. May 2002. <<http://www.ieer.org/reports/treaties/execsumm.pdf>>

The evolution of international law since World War II is largely a response to the demands of states and individuals living within a global society with a deeply integrated world economy. In this global society, the repercussions of the actions of states, non-state actors, and individuals are not confined within borders, whether we look to greenhouse gas accumulations, nuclear testing, the danger of accidental nuclear war, or the vast massacres of civilians that have taken place over the course of the last hundred years and still continue. Multilateral agreements increasingly have been a primary instrument employed by states to meet extremely serious challenges of this kind, for several reasons. They clearly and publicly embody a set of universally applicable expectations, including prohibited and required practices and policies. In other words, they articulate global norms, such as the protection of human rights and the prohibitions of genocide and use of weapons of mass destruction. They establish predictability and accountability in addressing a given issue. States are able to accumulate expertise and confidence by participating in the structured system offered by a treaty. However, influential U.S. policymakers are resistant to the idea of a treaty-based international legal system because they fear infringement on U.S. sovereignty and they claim to lack confidence in compliance and enforcement mechanisms. This approach has dangerous practical27 implications for international cooperation and compliance with norms. U.S. treaty partners do not enter into treaties expecting that they are only political commitments by the United States that can be overridden based on U.S. interests. When a powerful and influential state like the United States is seen to treat its legal obligations as a matter of convenience or of national interest alone, other states will see this as a justification to relax or withdraw from their own commitments. If the United States wants to require another state to live up to its treaty obligations, it may find that the state has followed the U.S. example and opted out of compliance.

#### ILaw solves biodiversity loss

**Glennon 90**

Michael Glennon, Board of Editors @ American Journal of Intl Law, Jan 1990, 84 A.J.I.L. 1

It is now possible to conclude that customary international law requires states to take appropriate steps to protect endangered species. Customary norms are created by state practice "followed by them from a sense of legal obligation." 250 Like highly codified humanitarian law norms that have come to bind even states that are not parties to the instruments promulgating them, 251 wildlife protection norms also have become binding on nonparties as customary law. Closely related to this process of norm creation by practice is that of norm creation by convention: customary norms are created by international agreements "when such agreements are intended for adherence by states generally and are in fact widely accepted." 252 Several such [\*31] agreements are directed at wildlife protection, 253 and CITES is one of them. It is intended for adherence by states generally 254 and is accepted by the 103 states that have become parties. In addition, some nonparties comply with certain CITES documentary requirements so as to trade with parties. 255 CITES is not "rejected by a significant number of states"; 256 only the United Arab Emirates has withdrawn from the agreement. In such circumstances, the International Court of Justice has observed, international agreements constitute state practice and represent law for nonparties. 257 Moreover, customary norms are created by "the general principles of law recognized by civilized nations." 258 Because CITES requires domestic implementation by parties to it, 259 and because the overall level of compliance seems quite high, 260 the general principles embodied in states' domestic endangered species laws may be relied upon as another source of customary law. 261 Even apart from the CITES requirements, states that lack laws protecting endangered species seem now to be the clear exception rather than the rule. 262 That there exists opinio juris as to the binding character of this obligation 263 is suggested by the firm support given endangered species [\*32] protection by the UN General Assembly and various international conferences. 264

**Biodiversity loss causes extinction—consensus of studies agrees**

**Cardinale 13**

Bradley Cardinale (associate professor in the School of Natural Resources & Environment at the University of Michigan, where he is director of the school's Conservation Ecology Program and teaches courses in conservation, restoration ecology, and ecosystem services. He is also an elected member of the International Council for Science's research program DIVERSITAS). “Opinion: Biodiversity Impacts Humanity.” The Scientist. February 20th, 2013. http://www.the-scientist.com/?articles.view/articleNo/34448/title/Opinion--Biodiversity-Impacts-Humanity/

Whether one views Biosphere II as a monumental failure or magnificent learning experience, it was a sobering reminder that we still don’t have even a basic understanding of how to design a biological system that can sustain human life. Obviously, this means we’re not yet in a position to put a human colony on Mars. More importantly, it means we don’t yet understand how to live sustainably on our own planet. Earth, like Biosphere II, is a materially closed ecosystem. Nothing is lost, and nothing is gained. And nearly everything that is **required to sustain human life** is made available by other living organisms. Without photosynthetic bacteria and plants, there would be no breathable atmosphere. Without microbes, fungi, and animals, there would be no soil to grow crops, and nothing to pollinate those crops if they did exist. Without these essential players in our planet’s global ecosystem, the oceans would have no fish, and forests would have no wood. There would be no fossil fuel, no renewable biofuel, and even if we had fuel to burn, there would be nothing to clean the pollutants from combustion out of the water we drink or the air we breathe. Nature has provided the goods and services needed to sustain human life for so long that most people take them for granted. But growing evidence suggests that Earth’s natural capital, and the **biological diversity that underpins these goods and services**, are being eroded. Some even claim that Earth is in the midst of a 6th mass extinction. Though this claim is a bit misleading—over the past 400 years, we’ve lost 1-13 percent of known species, compared with 75 percent or more lost during the five prior mass extinctions—the concern is not about the total number of species that have already gone extinct. Rather, the concern is how quickly species are being lost—and we are losing species faster than ever. In the fossil record, we normally see one species per thousand go extinct every millennia. Rates of extinction in the past century have increased to 100 to 1,000 times faster than normal. Add to this the abnormally high number of threatened and endangered species, and projections suggest we could truly reach the point of a mass extinction in 240-540 years. So what? Beyond conserving species for the sake of biodiversity, does it matter if a large fraction of Earth’s life forms cease to exist in the next few centuries? Biologists have spent much of the past 20 years addressing this very question, and they have now run more than 500 experiments in which they have simulated the extinction of species in nearly every major biome on Earth. **Results have been surprisingly consistent.** Whenever ecosystems lose species, they generally become **less efficient and less stable**. Less diverse communities are not as good at capturing biologically essential resources like sunlight, water, and nutrients. In turn, the growth of plants slows, as does the animals that eat the plants. Less diverse systems are also less efficient at decomposing waste products and recycling essential nutrients; thus, they become more “leaky.” Less diverse ecosystems tend to be more variable through time, which causes them to exhibit greater fluctuations and higher levels of unpredictability. Collectively, these things cause ecosystems with fewer species to be less efficient and reliable at providing society with many fundamentally important goods and services, like the provision of crops and fisheries, control of many types of pest and disease, production of wood, and the ability to remove carbon from the atmosphere, to name a few. On the other hand, it’s important to acknowledge that biodiversity is not always “good” for society. Biodiversity is, after all, the very reason we have antibiotic resistance. There is also no evidence to suggest we must conserve all species to maintain ecosystem services. Species have come and gone throughout Earth’s history, and yet, higher life continues to exist. Furthermore, humans have shown a unique ability to develop low diversity systems through domestication and bioengineering that can provide select products and services quite well. Even so, it is naive and dangerous to ignore our fundamental dependence on other life forms. It is clear that the loss of certain key species can have strong impacts on biological processes, and while it is sometimes obvious which species play the biggest roles, other times we don’t realize their importance until they are gone. It is also naive and dangerous to think we can bioengineer a planet that will be able sustain the growing human population. If we were unable to build a life-support system that could support 8 people in Biosphere II, who believes we can engineer a planet able to support 9 billion? We are taking the very genes and **species that have made Earth an inhabitable** and biologically productive planet over the past 3.8 billion years, and we are lining them up on **the edge of a cliff from which there is no return**. If the ever growing human population is to continue to prosper, we must better appreciate how our own well-being is directly linked to the great variety of life that is the most striking feature of our planet.

#### The only alternative to ILaw is genocide and nuclear war

**Shaw 1**

Shaw, Martin [Professor of International Relations and Politics at the University of Sussex]. “The unfinished global revolution: intellectuals and the new politics of international relations.” October 3, 2001. <<http://www.martinshaw.org/unfinished.pdf>>

The new politics of international relations require us, therefore, to go beyond the anti-imperialism of the intellectual left as well as of the semi-anarchist traditions of the academic discipline. We need to recognize three fundamental truths. First, in the twenty-first century people struggling for democratic liberties across the non-Western world are likely to make constant demands on our solidarity. Courageous academics, students and other intellectuals will be in the forefront of these movements. They deserve the unstinting support of intellectuals in the West. Second, the old international thinking in which democratic movements are seen as purely internal to states no longer carries conviction—despite the lingering nostalgia for it on both the American right and the anti-American left. The idea that global principles can and should be enforced worldwide is firmly established in the minds of hundreds of millions of people. This consciousness will become a powerful force in the coming decades. Third, global state-formation is a fact. International institutions are being extended, and (like it or not) they have a symbiotic relation with the major centre of state power, the increasingly internationalized Western conglomerate. The success of the global-democratic revolutionary wave depends first on how well it is consolidated in each national context—but second, on how thoroughly it is embedded in international networks of power, at the centre of which, inescapably, is the West. From these political fundamentals, strategic propositions can be derived. First, democratic movements cannot regard non-governmental organizations and civil society as ends in themselves. They must aim to civilize local states, rendering them open, accountable and pluralistic, and curtail the arbitrary and violent exercise of power. Second, democratizing local states is not a separate task from integrating them into global and often Western-centred networks. Reproducing isolated local centres of power carries with it classic dangers of states as centres of war. Embedding global norms and integrating new state centres with global institutional frameworks are essential to the control of violence. (To put this another way: the proliferation of purely national democracies is not a recipe for peace.) Third, while the global revolution cannot do without the West and the UN, neither can it rely on them unconditionally. We need these power networks, but we need to tame them too, to make their messy bureaucracies enormously more accountable and sensitive to the needs of society worldwide. This will involve the kind of ‘cosmopolitan democracy’ argued for by David Held. It will also require us to advance a global social-democratic agenda, to address the literally catastrophic scale of world social inequalities. This is not a separate problem: social and economic reform is an essential ingredient of alternatives to warlike and genocidal power; these feed off and reinforce corrupt and criminal political economies. Fourth, if we need the global-Western state, if we want to democratize it and make its institutions friendlier to global peace and justice, we cannot be indifferent to its strategic debates. It matters to develop international political interventions, legal institutions and robust peacekeeping as strategic alternatives to bombing our way through zones of crisis. It matters that international intervention supports pluralist structures, rather than ratifying Bosnia-style apartheid. As political intellectuals in the West, we need to have our eyes on the ball at our feet, but we also need to raise them to the horizon. We need to grasp the historic drama that is transforming worldwide relationships between people and state, as well as between state and state. We need to think about how the turbulence of the global revolution can be consolidated in democratic, pluralist, international networks of both social relations and state authority. We cannot be simply optimistic about this prospect. Sadly, it will require repeated violent political crises to push Western and other governments towards the required restructuring of world institutions. What I have outlined is a huge challenge; but the alternative is to see the global revolution splutter into partial defeat, or degenerate into new genocidal wars—perhaps even nuclear conflicts. The practical challenge for all concerned citizens, and the theoretical and analytical challenges for students of international relations and politics, are intertwined.

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### AT Perm

#### Hate speech is protected under the Constitution—this assumes the “fighting words” distinction—this makes our laws different from most of the world, which kills our credibility

**Carroll 15**

Lauren Carroll (PolitiFact staff writer based in Washington. Before PolitiFact, she held internships with the Tampa Bay Times in St. Petersburg, Fla., and the News and Observer in Raleigh, N.C. She is a 2014 graduate of Duke University, where she majored in political science). “CNN's Chris Cuomo: First Amendment doesn't cover hate speech.” PunditFact (part of PolitiFact). May 7th, 2015. http://www.politifact.com/punditfact/statements/2015/may/07/chris-cuomo/cnns-chris-cuomo-first-amendment-doesnt-cover-hate/

Hate speech is not the same thing as free speech, wrote CNN anchor Chris Cuomo on the ultimate forum for public discourse: Twitter. Amid debate about free speech after a shooting at an anti-Muslim protest in Texas , a user tweeted at Cuomo: "Too many people are trying to say hate speech (doesn’t equal) free speech." In response, Cuomo, who has a law degree, said, "It doesn't. Hate speech is excluded from protection. Don’t just say you love the Constitution … read it." The claim that the Constitution doesn’t protect hate speech incited heavy backlash, so we decided to flesh it out and see if there’s any truth to Cuomo’s statement. Them’s fightin’ words First let’s get the obvious out of the way: The concept of "hate speech" -- speech that negatively targets people based on personal traits like religion or race -- is not addressed in the Constitution. The First Amendment of the Constitution, included in the Bill of Rights, says: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances." That may seem cut and dried, but as with the rest of the Constitution, there are nuances to the concept of free speech. In the course of interpreting the amendment, courts have decided that certain speech does not fall under protections offered by the First Amendment. Unprotected speech includes things such as threats, child pornography and "fighting words" (speech that would likely draw someone into a fight, such as personal insults). But hate speech is not included in that list. However, sometimes hate speech can also be considered "fighting words" or a threat. In those cases, hate speech would be excluded from protections offered by the First Amendment, said James Weinstein, an expert in free speech at Arizona State University’s Sandra Day O’Connor Law School. For example, if someone hurled racial epithets during a heated argument with another individual, that could be considered both fighting words and hate speech, in which case it would not have First Amendment protection. But it would be unconstitutional to ban someone from putting those same words on a picket sign at a protest -- it would still be hate speech, but it wouldn’t fall under one of the unprotected categories. "With that caveat, the overwhelming understanding is that ‘hate speech’ is constitutionally protected in the United States," said Michael Herz, co-director of the Floersheimer Center for Constitutional Democracy at Cardozo Law. "Indeed, that protection makes this country different from most other countries in the world." To his credit, Cuomo later clarified his position and said he was referring to the type of hate speech that falls under unprotected categories -- specifically citing the 1941 Supreme Court ruling in Chaplinsky vs. New Hampshire, which excluded fighting words from the First Amendment. (In the Chaplinsky case, the fighting words were not hate speech; rather they were "God damned racketeer" and "damned fascist.") "Of course the First Amendment does not expressly mention hate speech among its six protections in its text," Cuomo said. "I meant to refer to the relevant case law about the (First Amendment) to see what is protected. There you quickly find that hate speech is almost always protected. The keyword is ‘almost.’ Hate speech can be prohibited; that is why I keep citing the Chaplinsky case and the fighting words doctrine." (Read his full response on Facebook.) Even with this clarification, Weinstein said Cuomo’s argument isn’t without holes. If a statute bans hate speech, it has to be because it counts as a threat or fighting words -- not simply because it is hate speech. This may seem like a slight nuance, but it’s important.