# Cards – Emory KL Aff Round 3 Districts

## 1AC

### 1AC 1

**ADVANTAGE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - Credibility**

**We should ratify the mine ban treaty – eliminating the right to use landmines would signal US commitment to internationalism, and function as an apology – this assumes all the other crappy things we’ve done**

GOOD 11 JD Northwestern University. BA Int’l Studies, American University [Rachel Good, Yes We Should: Why the U.S. Should Change Its Policy Toward the 1997 Mine Ban Treaty, Northwestern University Journal of International Human Rights, Spring, 2011, 9 Nw. U. J. Int'l Hum. Rts. 209]

VI. CONCLUSION: OBAMA SHOULD JOIN THE MINE BAN TREATY

After leaving office, President Clinton admitted that one of his biggest regrets in office was his administration's failure to sign the MBT. n226 Why? Seemingly, Clinton realized that landmines' limited military utility does not outweigh their humanitarian effect. This understanding reflects U.S. policy before and since the formulation of the MBT. The U.S. does not use, produce, or trade landmines. It reserves the right to, but does not use landmines with self-destruct or deactivation mechanisms. Landmines are not necessary for the protection of South Korea, nor can they be used in Iraq or Afghanistan without those countries violating the MBT. Finally, the U.S. has provided more humanitarian funding for mine action programs than any other nation. President Obama also has enough political support to join the Treaty. In May 2010, sixty-eight U.S. Senators sent President Obama a letter in support of the U.S. joining the MBT. n227 The U.S. refusal to join the Treaty rests solely on the U.S. military's desire to keep its stockpile of landmines, which it does not even use. The Obama administration should back the Mine Ban Treaty because it is in the best interest of the United States.

The United State's failure to join the Mine Ban Treaty illustrates American exceptionalism at its worst. Whereas the majority of states understood that the humanitarian situation caused by landmines warranted the strongest possible treaty, the United States refused to join unless other states accommodated its continued use and [\*229] stockpile of landmines. When its demands were rejected, chose to United States bow of the process rather than concede to middle-power states. n228 Since then, the U.S. has consistently developed policies in an attempt stay in line with the international norm developed by the MBT. n229 As long as the U.S. stays outside of the MBT, its landmine policies will be regarded as inadequate. P54 In the years since the U.S. refusal to join the Treaty, it has acted in an increasingly unilateral manner. The Bush administration's withdrawal from the Anti-Ballistic Missile Treaty and its rejection of the Kyoto Protocol, the International Criminal Court, and the Mine Ban Treaty were regarded by the international community as acts of an isolationist nation. n230 Along with the U.S.'s actions in Iraq and Afghanistan, the U.S. established a clear doctrine of global domination and exceptionalism. n231 President Obama has articulated a plan of global reintegration and has worked to restore the U.S.'s reputation as a cooperationist nation. n232 Joining the MBT would signal to the world that the Obama administration is serious about working with the international community. Since the U.S. has long opposed the MBT, the international community may regard U.S. ratification of the Treaty as an apology for its recent exceptionalist policies. Finally, the U.S. landmine policy is so close to the requirements of the MBT that joining the Treaty would not require a drastic shift in practice. The Obama administration should correct a lasting mistake of the Clinton administration by joining the MBT, and in doing so, indicate to the world community its desire to reengage and repair relationships.

**Joining Ottawa is necessary and sufficient – the fact that we aren’t using the weapons is that much more important.**

RIZER 12 Prosecutor with the DOJ, criminal division, Adjunt Prof of Law – Georgetown. Purple Heart & Bronze Star for service with the Army in Iraq [Arthur Rizer, ARTICLE: LESSONS FROM IRAQ AND AFGHANISTAN: IS IT TIME FOR THE UNITED STATES TO SIGN THE OTTAWA TREATY AND END THE USE OF LANDMINES?, Fall, 2012, Willamette Law Review, 49 Willamette L. Rev. 35]

During the apex of the fighting in the Pacific during World War II the United States military, because of the shocking level of casualties it was taking routing the Japanese from the Pacific islands, requested permission from the President to use chemical weapons. n167 President Roosevelt sent back a one sentence response: "All previous endorsements denied. Signed: Franklin D. Roosevelt, Commander in Chief." n168 President Roosevelt refused to use chemical weapons despite the fact his military was telling him it would save American [\*61] lives because "he saw the bigger picture, the long-term humanitarian implications, and thanks in part to his leadership, chemical weapons, which the War Department had called "the most effective weapon history has ever known,' were stigmatized and have hardly been used since." n169

It is true, chemical weapons are very "useful." n170 They not only have the potential to kill a great number of the enemy, but they also instill fear in the enemy. n171 In World War I, in which chemical weapons were used extensively, there were over one million casualties caused by the attacks, however the number of fatalities due to poisonous gas was relatively small at just over 90,000. n172 Despite the fact that victims of a gas attack had a relatively high chance of survival, with only about 7 percent of victims dying, gas still commanded the greatest fear from soldiers, making it an extremely effective military tool. n173 Nevertheless, after the war steps were taken to ban the use of chemical weapons, first with the treaty of Versailles of 1919, which focused on Germany, n174 and then with the Geneva Protocol. n175 The United States saw the horrors of chemical warfare in WWI and consequently vowed not to use chemical weapons, partly because they were deemed immoral. n176

In Iraq and Afghanistan, the enemy has taped captured American soldiers being tortured and have even released tapes of Americans [\*62] having their heads cut off while they pleaded for mercy. n177 This "tactic" is effective in some respects: the greatest fear of an American soldier in Iraq or Afghanistan is being captured, and soldiers do not make the best tactical decisions when they make them out of fear. n178 If the United States started to cut off the heads of insurgents when they were captured, it would be reasonable to conclude that people would think twice about becoming an insurgent. To take it a step further, the United States military could kill every single male in Iraq - the U.S. has enough bullets to carry out this mission and this would drastically reduce the insurgency. Yet we do not use these methods, not because they do not achieve results, but because they are illegal, and they are illegal because the international community, including the United States, has deemed them morally wrong.

A basic canon of military tactics, observed in Sun-Tzu's The Art of War, is to always take the high ground. n179 From the high ground you can better observe the enemy coming and attack the enemy at a greater distance. In the context of landmines, the high ground is also the moral high ground. n180 The U.S. could gain goodwill in the global community by making some concessions to international opinion. The United States has been at the forefront of criticizing despotic regimes such as China, Iran, and Burma, it has supported the regime change in Libya and Egypt, and it supports a change in Syria but ironically the United States shares the distinction of maintaining the use of landmines with the very countries it accuses of engaging in cruel military tactics. n181 It is remarkable to look at many of the other 35 countries that haven't joined the Ottawa Protocol and to realize that the United States is a member of this gang of infamy.

 [\*63] In many ways the United States has painted itself into a corner. The attitude of many other countries could be expressed as "how dare you lecture us on morality when you will not join something as simple as the Ottawa Treaty." Indeed, many believe that this credibility gap is hurting the United States on strategic levels, making the lost moral high ground more powerful than the landmines themselves. n182

There should be no illusion that joining the treaty would result in an idyllic world, with elimination of IEDs in Iraq and Afghanistan or a reduced threat from North Korea. However, the United States stands little chance of persuading the world to act more morally if we refuse to act in this area ourselves. As Senator Leahy stated, the United States should lead in stigmatizing these indiscriminate weapons so "the political price of using them serves as a deterrent. Will some rebel groups or rogue nations continue to defy the international norm? Undoubtedly the answer is yes. But by setting an example and using our influence we can reduce their numbers significantly to the benefit of our troops and the innocent."

**Signing solves relations with allies – demonized, excluded, and lack support because of our refusal to ratify**

RIZER 12 Prosecutor with the DOJ, criminal division, Adjunt Prof of Law – Georgetown. Purple Heart & Bronze Star for service with the Army in Iraq [Arthur Rizer, ARTICLE: LESSONS FROM IRAQ AND AFGHANISTAN: IS IT TIME FOR THE UNITED STATES TO SIGN THE OTTAWA TREATY AND END THE USE OF LANDMINES?, Fall, 2012, Willamette Law Review, 49 Willamette L. Rev. 35]

President Clinton stated that one of his biggest disappointments was that he could not sign the Ottawa Treaty. n203 He went on to lament that the United States has done more "to get rid of land mines than any country in the world by far. We spend half of the money the world spends on de-mining [and we] have destroyed over a million of [\*67] our own mines." n204 The primary reason that he did not sign the Treaty was because it was "unfair to the United States and to our Korean allies in meeting our responsibilities along the DMZ in South Korea." n205 At the same time it must have been understood by the Clinton administration that while the United States was supporting one ally by not joining the Treaty, it was also alienating many more. n206

Particularly in Iraq and Afghanistan, would joining the treaty today make soldiers safer tomorrow? If the way to measure safety is the number of IED attacks, the answer is probably "no." However, there has been much turmoil concerning the lack of international support for war in Iraq, and this lack of support was a major contributing factor to difficulties seen there. n207 This might seem like a disingenuous question because one can never know if the United States would have received more international support in Iraq, and even Afghanistan, if it had joined the Ottawa Treaty or other popular international treaties for that matter. Traditionally, the United States of America has been viewed among its allies as a virtuous country, but we have lost some of our prestige because of our position on landmines. n208

Moreover, one provision of the Treaty provides that "each State Party undertakes never under any circumstances [to] ... assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention." Consequently, many signing states have expressed concern about participating with the United States in military operations because of they fear such participation could be seen as a violation of the treaty if the United States used APLs during the exercise. n209

 [\*68] Director Barlow, when describing the allies of the United States and their reaction to the U.S. refusal to join the Treaty, said that "we have dismayed our allies with this, and maybe we deserve the criticism a little. However, we have been demonized on this issue - accused of exclusivity, exceptionalism, typical American superiority, and just being indifferent." n210 As a result of the United States' refusal, some nations have "been downright rude" to American representatives. n211 Director Barlow recounted an incident where the American Ambassador was forced to leave the floor of a review conference by the Norwegian Ambassador - the latter accusing the United States of not paying for the right to be there. n212 Yet national security decisions should not be made based on whether other nations will have opportunities to embarrass us. Director Barlow believes the United States, having "left ourselves out of the discussion," has thus limited its influence in this area. n213 "We were the leaders in this area, [but now] there are review conferences and expert committees that we cannot participate in. We could be part of the solution but instead we have locked ourselves out and hurt our national security by alienating our allies over a weapon we don't even use." n214

Ultimately, it is true that the security that will be acquired from joining the Ottawa Treaty will not manifest itself immediately - it is highly unlikely that a terrorist organization will discontinue plotting against America simply because the United States has forsaken landmines. However, by amplifying our reputation with our allies the United States will reap security benefits in the future.

**Obama not ratifying is a slap in the face of multilateralism – it signals that the Bush era neocon policies will be the default**

BOLTON 09 PhD - London School of Economics [Matthew Bolton, The Guardian, Obama follows Bush on landmines, http://www.theguardian.com/commentisfree/cifamerica/2009/nov/26/obama-landmine-ban-treaty]

In two weeks' time, Barack Obama will accept the Nobel peace prize in Oslo for his "extraordinary efforts to strengthen international diplomacy and co-operation between peoples" and his commitment to "disarmament and arms control negotiations".

Yet on Tuesday, as Americans' attentions were turning to the Thanksgiving holidays, a state department spokesman, Ian Kelly, quietly announced that the Obama administration would not sign the international antipersonnel landmine ban. He also said that the Bush-era landmine policy, a regression from Bill Clinton's position, "remains in effect".

"It is painful that President Obama has chosen to reject the mine ban treaty just weeks before he joins the ranks of Nobel peace laureates, including the International Campaign to Ban Landmines," said Steve Goose, arms division director at Human Rights Watch, summing up the disappointment felt by many at Obama's decision.

The announcement comes just days before more than 150 signatory countries of the mine ban treaty meet in Cartegena, Colombia to review progress toward eradicating the threat of landmines in the world's current and former war zones.

Last year, landmines and other similar devices killed or injured more than 5,000 people, over 60% of whom were civilians and 28% children. By failing to take a strong stand against landmines, the US will appear to condone this human tragedy and make it easier for China, Russia, Iran and other non-signatories to the ban to shirk their responsibilities.

Anti-landmine campaigners and liberal activists had hoped Obama would use the landmine and cluster munitions bans to demonstrate a new commitment to multilateralism, humanitarianism and disarmament. During the campaign he had hinted, though not committed himself to, a more progressive stand than Bush had taken.

Instead, Obama's administration has endorsed his predecessor's unilateral repudiation of the treaty. This has outraged the anti-landmine movement, both in the US and globally.

The International Campaign to Ban Landmines, a coalition of hundreds of NGOs, churches and grassroots organisations worldwide, "strongly condemned" the decision; its US counterpart called the announcement "shocking".

"We cannot understand this shameful decision and we definitely cannot understand President Obama's decision to continue with the Bush policy," said Jody Williams, Nobel co-laureate for her role in the landmine ban. "This decision is a slap in the face to landmine survivors, their families and affected communities everywhere."

While the US has not used landmines since 1991, it has stockpiles of some 10m antipersonnel mines and 7.5m anti-vehicular mines, and has used cluster bombs, which leave behind explosive "duds" that act as de facto mines, in Kosovo, Afghanistan and Iraq.

Obama's apparent approval of a hawkish Bush administration policy has also angered his base supporters, who had hoped his election would usher in an era of liberal, multilateral and gentler foreign policy.

When veteran Democratic senator Patrick Leahy of Vermont endorsed Obama's presidential run in 2008, he told reporters it was because we needed a president who could "reintroduce America to the world". However, this week, Leahy did not hold back in his criticism of Obama.

"The United States is the most powerful nation on earth. We don't need these weapons and most of our allies have long ago abandoned them," said Leahy. "It is a lost opportunity for the United States to show leadership instead of joining with China and Russia and impeding progress."

On Wednesday, in the face of this criticism, the Obama administration seemed to backpedal slightly, saying that a policy review on landmine issues was still continuing. Landmine activists have called on the administration to engage and consult with outside experts, Nato allies who are members of the treaty and organisations working to clear landmines.

As a Nobel peace laureate and the leader of the world's most powerful nation, Obama has a duty to live up to his responsibilities to protect civilians in current and former war zones.

Obama's misstep must serve as a wake up call for concerned liberal citizens in the US and around the world. Just because Obama shares our language, and probably our ideals, if he doesn't feel political pressure from the left, his administration will be tempted to avoid a backlash from the right by maintaining hawkish and unilateralist Bush-era policies.

**Multilat leads to global coop and power sharing—it creates shared framework of interaction changes the way states interpret global politics**

Pouliot 11—Professor of Poli Sci @ McGill University [Vincent Pouliot, “Multilateralism as an End in Itself,” International Studies Perspectives (2011) 12, 18–26]

Because it rests on open, nondiscriminatory debate, and the routine exchange of viewpoints, the multilateral procedure introduces three key advantages that are gained, regardless of the specific policies adopted, and tend to diffuse across all participants. Contrary to the standard viewpoint, according to which a rational preference or functional imperative lead to multilateral cooperation, here it is the systematic practice of multilateralism that creates the drive to cooperate. At the theoretical level, the premise is that it is not only what people think that explains what they do, but also what they do that determines what they think (Pouliot 2010). Everyday multilateralism is a self-fulfilling practice for at least three reasons.

First, the joint practice of multilateralism creates mutually recognizable patterns of action among global actors. This process owes to the fact that practices structure social interaction (Adler and Pouliot forthcoming).2 Because they are meaningful, organized, and repeated, practices generally convey a degree of mutual intelligibility that allows people to develop social relations over time. In the field of international security, for example, the practice of deterrence is premised on a limited number of gestures, signals, and linguistic devices that are meant, as Schelling (1966:113) put it, to ‘‘getting the right signal across.’’ The same goes with the practice of multilateralism, which rests on a set of political and social patterns that establish the boundaries of action in a mutually intelligible fashion. These structuring effects, in turn, allow for the development of common frameworks for appraising global events. Multilateral dialog serves not only to find joint solutions; it also makes it possible for various actors to zoom in on the definition of the issue at hand—a particularly important step on the global stage.

The point is certainly not that the multilateral procedure leads everybody to agree on everything—that would be as impossible as counterproductive. Theoretically speaking, there is room for skepticism that multilateralism may ever allow communicative rationality at the global level (see Risse 2000; Diez and Steans 2005). With such a diverse and uneven playing field, one can doubt that discursive engagement, in and of itself, can lead to common lifeworlds. Instead, what the practice of multilateralism fosters is the emergence of a **shared framework of interaction**—for example, a common linguistic repertoire—that allows global actors to make sense of world politics in mutually recognizable ways. Of course, they may not agree on the specific actions to be taken, but at least they can build on an established pattern of political interaction to deal with the problem at hand—sometimes even before it emerges in acute form. In today’s pluralistic world, that would already be a considerable achievement.

In that sense, multilateralism may well be a constitutive practice of what Lu (2009) calls ‘‘political friendship among peoples.’’ The axiomatic practice of principled and inclusive dialog is quite apparent in the way she describes this social structure: ‘‘**While conflicts**, especially over the distribution of goods and burdens, **will inevitably arise, under conditions of political friendship among peoples, they will be negotiated within** a global background context of norms and **institutions based on mutual recognition**, equity in the distribution of burdens and benefits **of global cooperation**, **and power-sharing** in the institutions of global governance rather than domination by any group’’ (2009:54–55). In a world where multilateralism becomes an end in itself, this ideal pattern emerges out of the structuring effects of axiomatic practice: take the case of NATO, for instance, which has recently had to manage, through the multilateral practice, fairly strong internal dissent (Pouliot 2006). While clashing views and interests will never go away in our particularly diverse world, as pessimists are quick to emphasize (for example, Dahl 1999), the management of discord is certainly made easier by shared patterns of dialog based on mutually recognizable frameworks.

Second, the multilateral procedure typically ensures a remarkable level of moderation in the global policies adopted. In fact, a quick historical tour d’horizon suggests that actors engaged in multilateralism tend to avoid radical solutions in their joint decision making. Of course, the very process of uniting disparate voices helps explain why multilateralism tends to produce median consensus. This is not to say that the multilateral practice inevitably leads to lowest common denominators. To repeat, because it entails complex and often painstaking debate before any actions are taken, the multilateral procedure forces involved actors to devise and potentially share similar analytical lenses that, in hindsight, make the policies adopted seem inherently, and seemingly ‘‘naturally,’’ moderate. This is because the debate about what a given policy means takes place before its implementation, which makes for a much smoother ride when decisions hit the ground. This joint interpretive work, which constitutes a crucial aspect of multilateralism, creates outcomes that are generally perceived as inherently reasonable. Participation brings inherent benefits to politics, as Bachrach (1975) argued in the context of democratic theory. Going after the conventional liberal view according to which actors enter politics with an already fixed set of preferences, Bachrach observes that most of the time people define their interests in the very process of participation. The argument is not that interests formed in the course of social interaction are in any sense more altruistic. It rather is that the nature and process of political practices, in this case multilateralism, matter a great deal in shaping participants’ preferences (Wendt 1999). In this sense, not only does the multilateral practice have structuring effects on global governance, but it is also constitutive of what actors say, want, and do (Adler and Pouliot forthcoming).

Third and related, multilateralism lends legitimacy to the policies that it generates by virtue of the debate that the process necessarily entails. There is no need here to explain at length how deliberative processes that are inclusive of all stakeholders tend to produce outcomes that are generally considered more socially and politically acceptable. In the long run, the large ownership also leads to more efficient implementation, because actors feel invested in the enactment of solutions on the ground. Even episodes of political failure, such as the lack of UN reaction to the Rwandan genocide, can generate useful lessons when re-appropriated multilaterally—think of the Responsibility to Protect, for instance.3 From this outlook, there is no contradiction between efficiency and the axiomatic practice of multilateralism, quite the contrary. The more multilateralism becomes the normal or self-evident practice of global governance, the more benefits it yields for the many stakeholders of global governance. In fact, multilateralism as an end in and of itself could generate even more diffuse reciprocity than Ruggie had originally envisioned. Not only do its distributional consequences tend to even out, **multilateralism as a global governance routine** also **creates** self-reinforcing dynamics and new focal points for strategic interaction**. The axiomatic practice of multilateralism helps define problems in commensurable ways and craft moderate solutions** with wide-ranging ownership—three processual benefits that further strengthen the impetus for multilateral dialog. Pg. 21-23

**Only legitimacy can foster ALLIANCE FORMATION and changes the INCENTIVE MODEL of adversaires**

Gilber 08 (Douglas M Gibler 8, Department of Political Science University of Alabama, Tuscaloosa “The Costs of Reneging: Reputation and Alliance Formation” The Journal of Conflict Resolution, Vol. 52, No. 3, June, pp. 426-454)

More sophisticated treatments of the reputation logic have been produced by formal theorists, both in economics and in political science. In economics, the ability of firm reputation to deter competition has been well analyzed (see Kreps and Wilson, 1982; Wilson, 1989; and Weigelt and Camerer, 1988), and political scientists have adopted these theories as tools in understanding the types of signals leaders can send (see for example, Alt, Calvert, and Humes, 1988; Ordeshook, 1986; and Wagner, 1992). Sartori (2002) and Guisinger and Smith (2002) probably go furthest in arguing that leaders and their envoys have incentives to develop certain types of reputations in order to overcome the uncertainty endemic to crisis diplomacy. In these models, a reputation for honesty allows the sender to credibly give information that would otherwise be “cheap talk”, and thus, leaders may concede less important issues, without bluffing, in order to maintain a reputation for honesty when more important issues arise (Sartori, 2002: 122).

The sum argument of these statements and theoretical treatments is clear. Decision-makers argue and act, at least in part, based on reputations. Traditional deterrence theory suggests reputations should be pursued by leaders as important and manipulable tools, which are useful in future crises. Formal theorists agree; reputations provide valuable information when the costs of signaling are low.

**Material power is irrelevant – only legitimacy can solve great power wars.**

Finnemore 09 (Martha Finnemore 9, professor of political science and international affairs at George Washington University, January 2009, “Legitimacy, Hypocrisy, and the Social Structure of Unipolarity: Why Being a Unipole Isn’t All It’s Cracked Up to Be,” World Politics, Volume 61, Number 1)

Legitimacy is, by its nature, a social and relational phenomenon. One’s position or power cannot be legitimate in a vacuum. The concept only has meaning in a particular social context. Actors, even unipoles, cannot create legitimacy unilaterally. Legitimacy can only be given by others. It is conferred either by peers, as when great powers accept or reject the actions of another power, or by those upon whom power is exercised. Reasons to confer legitimacy have varied throughout history. Tradition, blood, and claims of divine right have all provided reasons to confer legitimacy, although in contemporary politics conformity with [End Page 61] international norms and law is more influential in determining which actors and actions will be accepted as legitimate. 9

Recognizing the legitimacy of power does not mean these others necessarily like the powerful or their policies, but it implies at least tacit acceptance of the social structure in which power is exercised. One may not like the inequalities of global capitalism but still believe that markets are the only realistic or likely way to organize successful economic growth. One may not like the P5 vetoes of the Security Council but still understand that the United Nations cannot exist without this concession to power asymmetries. We can see the importance of legitimacy by thinking about its absence. Active rejection of social structures and the withdrawal of recognition of their legitimacy create a crisis. In domestic politics, regimes suffering legitimacy crises face resistance, whether passive or active and armed. Internationally, systems suffering legitimacy crises tend to be violent and noncooperative. Post-Reformation Europe might be an example of such a system. Without at least tacit acceptance of power’s legitimacy, the wheels of international social life get derailed. Material force alone remains to impose order, and order creation or maintenance by that means is difficult, even under unipolarity. Successful and stable orders require the grease of some legitimation structure to persist and prosper.10

The social and relational character of legitimacy thus strongly colors the nature of any unipolar order and the kinds of orders a unipole can construct. Yes, unipoles can impose their will, but only to an extent. The willingness of others to recognize the legitimacy of a unipole’s actions and defer to its wishes or judgment shapes the character of the order that will emerge. Unipolar power without any underlying legitimacy will have a very particular character. The unipole’s policies will meet with resistance, either active or passive, at every turn. Cooperation will be induced only through material quid pro quo payoffs. Trust will be thin to nonexistent. This is obviously an expensive system to run and few unipoles have tried to do so.

**Nuclear war, escalation, and extinction from multiple causes can only be avoided through a strong multi-lateral system**

DYER 04 Military Historian, Lecturer on Int’l Affairs, PhD Kings College London [Gwynne Dyer, The End of War, http://www.commondreams.org/views04/1230-05.htm]

War is deeply embedded in our history and our culture, probably since before we were even fully human, but weaning ourselves away from it should not be a bigger mountain to climb than some of the other changes we have already made in the way we live, given the right incentives. And we have certainly been given the right incentives: The holiday from history that we have enjoyed since the early '90s may be drawing to an end, and another great-power war, fought next time with nuclear weapons, may be lurking in our future.

The "firebreak" against nuclear weapons use that we began building after Hiroshima and Nagasaki has held for well over half a century now. But the proliferation of nuclear weapons to new powers is a major challenge to the stability of the system. So are the coming crises, mostly environmental in origin, which will hit some countries much harder than others, and may drive some to desperation.

Add in the huge impending shifts in the great-power system as China and India grow to rival the United States in GDP over the next 30 or 40 years and it will be hard to keep things from spinning out of control. With good luck and good management, we may be able to ride out the next half-century without the first-magnitude catastrophe of a global nuclear war, but the potential certainly exists for a major die-back of human population.

We cannot command the good luck, but good management is something we can choose to provide. It depends, above all, on preserving and extending the multilateral system that we have been building since the end of World War II. The rising powers must be absorbed into a system that emphasizes co-operation and makes room for them, rather than one that deals in confrontation and raw military power. If they are obliged to play the traditional great-power game of winners and losers, then history will repeat itself and everybody loses.

Our hopes for mitigating the severity of the coming environmental crises also depend on early and concerted global action of a sort that can only happen in a basically co-operative international system.

When the great powers are locked into a military confrontation, there is simply not enough spare attention, let alone enough trust, to make deals on those issues, so the highest priority at the moment is to keep the multilateral approach alive and avoid a drift back into alliance systems and arms races. And there is no point in dreaming that we can leap straight into some never-land of universal brotherhood; we will have to confront these challenges and solve the problem of war within the context of the existing state system.

The solution to the state of international anarchy that compels every state to arm itself for war was so obvious that it arose almost spontaneously in 1918. The wars by which independent states had always settled their quarrels in the past had grown so monstrously destructive that some alternative system had to be devised, and that could only be a pooling of sovereignty, at least in matters concerning war and peace, by all the states of the world. So the victors of World War I promptly created the League of Nations.

But the solution was as difficult in practice as it was simple in concept. Every member of the League of Nations understood that if the organization somehow acquired the ability to act in a concerted and effective fashion, it could end up being used against them, so no major government was willing to give the League of Nations any real power.

Instead, they got World War II, and that war was so bad � by the end the first nuclear weapons had been used on cities � that the victors made a second attempt in 1945 to create an international organization that really could prevent war. They literally changed international law and made war illegal, but they were well aware that all of that history and all those reflexes were not going to vanish overnight.

It would be depressing to catalogue the many failures of the United Nations, but it would also be misleading. The implication would be that this was an enterprise that should have succeeded from the start, and has failed irrevocably. On the contrary; it was bound to be a relative failure at the outset. It was always going to be very hard to persuade sovereign governments to surrender power to an untried world authority which might then make decisions that went against their particular interests. In the words of the traditional Irish directions to a lost traveler: "If that's where you want to get to, sir, I wouldn't start from here."

But here is where we must start from, for it is states that run the world.

The present international system, based on heavily armed and jealously independent states, often exaggerates the conflicts between the multitude of human communities in the world, but it does reflect an underlying reality: We cannot all get all we want, and some method must exist to decide who gets what. That is why neighboring states have lived in a perpetual state of potential war, just as neighboring hunter-gatherer bands did 20,000 years ago.

If we now must abandon war as a method of settling our disputes and devise an alternative, it only can be done with the full co-operation of the world's governments. That means it certainly will be a monumentally difficult and lengthy task: Mistrust reigns everywhere and no nation will allow even the least of its interests to be decided upon by a collection of foreigners.

Even the majority of states that are more or less satisfied with their borders and their status in the world would face huge internal opposition from nationalist elements to any transfer of sovereignty to the United Nations.

The good news for humans is that it looks like peaceful conditions, once established, can be maintained. And if baboons can do it, why not us?

The U.N. as presently constituted is certainly no place for idealists, but they would feel even more uncomfortable in a United Nations that actually worked as was originally intended.

It is an association of poachers turned game-keepers, not an assembly of saints, and it would not make its decisions according to some impartial standard of justice.

There is no impartial concept of justice to which all of mankind would subscribe and, in any case, it is not "mankind" that makes decisions at the United Nations, but governments with their own national interests to protect.

To envision how a functioning world authority might reach its decisions, at least in its first century or so, begin with the arrogant promotion of self-interest by the great powers that would continue to dominate U.N. decision-making and add in the crass expediency masquerading as principle that characterizes the shifting coalitions among the lesser powers in the present General Assembly: It would be an intensely political process.

The decisions it produced would be kept within reasonable bounds only by the need never to act in a way so damaging to the interest of any major member or group of members that it forced them into total defiance, and so destroyed the fundamental consensus that keeps war at bay.

There is nothing shocking about this.

National politics in every country operates with the same combination: a little bit of principle, a lot of power, and a final constraint on the ruthless exercise of that power based mainly on the need to preserve the essential consensus on which the nation is founded and to avoid civil war.

In an international organization whose members represent such radically different traditions, interests, and levels of development, the proportion of principle to power is bound to be even lower. It's a pity that there is no practical alternative to the United Nations, but there isn't.

If the abolition of great-power war and the establishment of international law is truly a hundred-year project, then we are running a bit behind schedule but we have made substantial progress.

We have not had World War III, and that is thanks at least in part to the United Nations, which gave the great powers an excuse to back off from several of their most dangerous confrontations without losing face. No great power has fought another since 1945, and the wars that have broken out between middle-sized powers from time to time � Arab-Israeli wars and Indo-Pakistani wars, mostly � seldom lasted more than a month, because the U.N.'s offers of ceasefires and peacekeeping troops offered a quick way out for the losing side.

If you assessed the progress that has been made since 1945 from the perspective of that terrifying time, the glass would look at least half-full.

The enormous growth of international organizations since 1945, and especially the survival of the United Nations as a permanent forum where the states of the world are committed to avoiding war (and often succeed), has already created a context new to history.

The present political fragmentation of the world into more than 150 stubbornly independent territorial units will doubtless persist for a good while to come. But it is already becoming an anachronism, for, in every other context, from commerce, technology, and the mass media to fashions in ideology, music, and marriage, the outlines of a single global culture (with wide local variations) are visibly taking shape.

It is very likely that we began our career as a rising young species by exterminating our nearest relatives, the Neanderthals, and it is entirely possible we will end it by exterminating ourselves, but the fact that we have always had war as part of our culture does not mean that we are doomed always to fight wars.

Other aspects of our behavioral repertoire are a good deal more encouraging. There is, for example, a slow but quite perceptible revolution in human consciousness taking place: the last of the great redefinitions of humanity.

### 1AC 2

**Advnatage \_\_\_ is the law of weaponry**

**Because of the failure of international law and regulations – the line between peaceful and military nanotech has been blurred – this will cause a nano-arms race and extinction from new weaponry.**

Nasu & Faunce 10 (Hitoshi Nasu: Lecturer, The Australian National University College of Law,¶ Australia.¶ Thomas Faunce: Associate Professor, The Australian National University College¶ of Law and Medical School, Australia. Australian Research Council Future Fellow, “Nanotechnology and the International Law of¶ Weaponry: Towards International Regulation of Nano-¶ Weapons”, Journal of Law, Information and Science)

Military applications of nanotechnology will not be confined to defensive¶ capabilities, however. Nanotechnology allows the building of conventional¶ missiles with reduced mass and enhanced speed, small metal-less weapons¶ made of nanofibre composites, small missiles as well as artillery shells with¶ enhanced accuracy guided by inertial navigation systems, and armour-piercing¶ projectiles with increased penetration capability. Although it is still highly¶ speculative, further research could lead to the development of micro-combat robots, micro-fusion nuclear weapons, new chemical agents carried by¶ nanoparticles, and new biological agents with self-replication capability.38

Some of the potential offensive military applications of nanotechnology could¶ span several traditional technological compartments and blur the distinction¶ between conventional weapons and weapons of mass destruction. The ability¶ of nanotechnology to design and manipulate molecules with specific properties¶ could lead to biochemicals capable of altering metabolic pathways and causing¶ defined hostile results ranging from temporary incapacitation to death.39¶ Nanotechnology could also make it possible to contain and carry a minute¶ amount of pure-fusion fuel safely until released, detonating a micro-nuclear¶ bomb at a microspot.40 As will be shown below, it is likely that those new¶ weapons would be subjected to prohibition and inspection under existing¶ treaties, as long as currently available chemicals and biological agents are used¶ in nano-size.41 However, the dual-use potential of nanotechnology and the low¶ visibility of nanoparticles in weapons make it hard to detect their development¶ and use as weapons

Concern has been raised about the potentially unique harmful effects of nanoweapons.¶ At an individual level, explosives such as those using nano-energetic¶ particles, nano-aluminum or non-metal nano-fibre composites, and nanomedicines¶ that improve soldiers’ ability to overcome sleep deprivation,42 could¶ cause unnecessary suffering to both combatants and non-combatants. At a¶ larger, strategic level, the development and deployment of smaller, longer¶ range missiles with greater precision, or new bio-chemical agents could¶ dramatically change the balance of military power and the way in which a war¶ is fought. Because of these concerns, there have been calls for moratoriums or¶ bans on nanotechnology.43 Others have proposed the creation of a preventative¶ arms control regime based on prospective scientific, technical, and military¶ operational analysis of nanotechnology.44 However, no international agreement alone would be effective or even feasible in halting or controlling¶ the development of nanotechnology without proper regulatory mechanisms¶ that will address the right balance between military necessity, humanitarian¶ considerations and peaceful applications of nanotechnology.

**Resolving issues of superfluous injury and non-combantants in i-law is k2 nanotech regulations.**

Nasu & Faunce 10 (Hitoshi Nasu: Lecturer, The Australian National University College of Law,¶ Australia.¶ Thomas Faunce: Associate Professor, The Australian National University College¶ of Law and Medical School, Australia. Australian Research Council Future Fellow, “Nanotechnology and the International Law of¶ Weaponry: Towards International Regulation of Nano-¶ Weapons”, Journal of Law, Information and Science)

3.2 International Humanitarian Law Principles and Nano-Weaponry

The international arms control treaties noted above usually concentrate on¶ regulating or prohibiting the specified weapon’s construction aims and¶ characteristics. General principles of international humanitarian law, on the¶ other hand, tend to regulate the conduct of warfare by reference to the harmful¶ effects produced by the use of means or methods of warfare.68 The general¶ principle, for example, that ‘the right of belligerents to adopt means of warfare¶ is not unlimited’ may have had its roots in compassion and rejection of¶ unnecessary suffering textually manifesting in Ancient Greece and India.69 No matter how nascent this was as a legal principle before the emergence of¶ modern international law of armed conflict, it has received widespread support¶ amongst the leaders of nations over many years. There is now little doubt¶ about whether this broad statement about the regulation of weaponry is a¶ reflection of ‘elementary considerations of humanity’.70 More specifically, there¶ are two basic principles of international humanitarian law highly relevant to¶ nano-weaponry: one prohibiting the employment of arms, projectiles, or¶ material ‘of a nature to cause superfluous injury’ (or ‘calculated to cause¶ unnecessary suffering’);71 and the other prohibiting the use of weapons that¶ indiscriminately affect both combatants and non-combatants.72

The principle of prohibiting superfluous injury or unnecessary suffering is¶ central to the consideration of legality under the international law of¶ conventional weapons, as opposed to weapons of mass destruction.73 It was¶ first enunciated in the preamble to the 1868 St Petersburg Declaration,74 but was¶ a rhetorical expression of the drafters’ inspiration, rather than their intention to¶ impose legal obligations.75 It was formally adopted as a binding rule in the¶ subsequent treaties,76 and since then has attained the status of customary international law.77 This is so irrespective of the distinction between civilian¶ and military targets.78 The prohibition is now incorporated into the 1998 Rome¶ Statute of the International Criminal Court as one of the criminal offences.79¶ This principle appears to be principally relevant to the international regulation¶ of nano-weapons insofar as those weapons could pose novel, unnecessarily¶ severe and long-term health and environmental impacts.

The specific rules of arms control law, as they potentially apply to nanoweapons,¶ are thus a subset of the general principles of international humanitarian law on weaponry.80 Assuming that it may not be clear whether a¶ nano-weapon is prohibited, general humanitarian law principles then may¶ serve as a general legal or moral basis for questioning its legality and starting¶ negotiations which may result in its prohibition.81 Such a debate will have to¶ take account of the ‘Martens Clause’,82 although ‘principles of humanity’ and¶ ‘dictates of public conscience’ alone provide no firm legal basis to prohibit the¶ use of particular weapons.83

In practice, it is likely to prove difficult to rely on general humanitarian law¶ principles by themselves as laying down a firm legal basis for restricting the usage of nano-weapons outside a specific arms control treaty.84 In the Legality¶ of Nuclear Weapons Opinion, for instance, the International Court of Justice was¶ unwilling to declare the threat or use of nuclear weapons illegal in all¶ circumstances, even though it explicitly acknowledged the applicability of the¶ general humanitarian law principles.85

Another illustrative debate with implications for nano-weapons, concerns the¶ legality of depleted uranium (DU) munitions.86 Concerns about the effects of¶ the use of DU munitions were first publicly raised in relation to speculation¶ that ‘Gulf War Syndrome’ was linked to exposure to DU, although no causal¶ relationship was established.87 However, a recent scientific study shows that¶ toxic chemicals that are released upon impact (arguably in the form of nanoparticles)¶ are suspected of weakening the immune system, causing acute¶ respiratory conditions and severe kidney problems, and increasing the chances¶ of genetic birth defects and cancer.88 Although scientific analysis is still inconclusive, evidence against DU continues to mount,89 indicating an intrinsic¶ illegality of DU weapons under the general principles prohibiting superfluous¶ injury or unnecessary suffering.90

Three relevant issues potentially arise regarding the actual meaning and scope¶ of this international humanitarian law principle against superfluous or¶ unnecessary suffering in relation to nano-weapons.¶ The first point concerns whether the legality of a nano-weapon should be¶ assessed in the light of the primary intention behind its development, or by¶ reference to the objective nature or likely outcome of its use. This debate traces¶ its origin back to the different English texts used to translate the principle¶ enunciated in the 1899 and 1907 Hague Regulations.91 The phrase ‘of a nature to¶ cause’ in the 1899 text indicates the objectiveness of this criterion, whereas the¶ term ‘calculated to cause’ in the 1907 text is more restrictively interpreted to¶ refer to a more subjective intention by the force employing it.

Although the actual text of this principle was settled with ‘of a nature to cause’¶ in the 1977 Additional Protocol I, there remains a disagreement about the test to¶ be applied. Some commentators look at the primary purpose for which the new¶ weapon is designed in order to determine whether it causes injury or suffering¶ disproportionate to its military effectiveness.92 Others, reading it in conjunction¶ with Article 36 of Additional Protocol I, focus on the effects of normal or¶ expected use of the new weapon.93 Depending on which approach is taken,¶ military applications of nanotechnology with the primary purpose of reducing¶ civilian casualties, for example, may well be deemed illegal due to the¶ potentially unnecessary health and environmental effects.

This debate has been particularly pertinent to DU munitions, as they are¶ primarily intended to be anti-matériel weapons, highly efficient in penetrating¶ advanced tank armour, rather than to be anti-personnel weapons. The¶ principle prohibiting the use of arms of a nature that causes superfluous injury¶ or unnecessary suffering has primarily been applied in relation to antipersonnel¶ weapons. It has not traditionally been used to question the legality¶ of anti-matériel weapons that incidentally cause more severe injuries to¶ personnel in the vicinity of the target than necessary to render them hors de¶ combat.94 Given the changing nature of modern warfare where disabling¶ military personnel has become less and less important, the notion of¶ superfluous injury or unnecessary suffering incidental to the destruction of¶ military matériel may well need to be reconsidered.95 Accordingly, a wider¶ interpretation of this principle could invoke both immediate and consequential¶ effects in assessing what is necessary to destroy the military matériel when it is¶ sought to be applied to nano-weapons.

**US Adherence and signing the treaty is necessary to evolve human security concepts of I-law**

Holbrook 09 (Holbrook, Trevor. M.A. International Relations candidate at ¶ Webster University in Bangkok, Thailand, "U.S. Policy Recommendation: Ottawa Convention on Anti-Personnel Landmines." Human Rights Brief 17, no. 1¶ (2009): 24-28.)

While the purpose of the Ottawa Convention is clearly in line¶ with the U.S. mission to support human rights and humanitarian¶ action around the world, perhaps the most important reason¶ for accession to the Convention are the treaty’s implications¶ for the future of international law. While the United States has¶ supported the elimination of civilian landmine threats over the¶ last twenty years, it has also continued to insist on the tactical¶ military importance of indiscriminate anti-personnel landmines¶ and has developed its policy based heavily on the military¶ viewpoint. This insistence flies in the face of the international¶ community’s acknowledgement of the disproportionate humanitarian¶ effect of such weapons and the successful introduction of¶ the human security concept into international law. Accession to¶ the Convention is in the best long-term interest of the United¶ States, allowing it to stay near the forefront of international¶ law. Possessing the technology and capability to develop new¶ weaponry, the United States must find an alternative to landmine¶ use in Korea. The cost of ignoring the international consensus¶ in order to maintain a fifty-year-old war zone is short-sighted¶ and in opposition to U.S. goals to spread freedom and improve¶ international security.

**Land mine precedent is uniquely key to keep the application of the law of weaponry around for future weapons use. Applying the precedent of existing laws and bolstering effectiveness prevents lax legal loopholes for future weapon use.**

Greenwood 98 (Christopher, Judge of the International Court of Justice, professor of international law at the London School of Economics and a barrister who regularly appeared as counsel before the International Court of Justice, the European Court of Human Rights, the English courts, and other tribunals., “The Law of Weaponry”, International Law Studies - Volume 71 The Law of Armed Conflict: Into the Next Millennium Michael N. Schmitt & Leslie C. Green (Editors)

This stocktaking of the law of weaponry at the end of the twentieth century shows that this part of the law of armed conflict, while not one of the most effective, cannot be disregarded as an anachronism. The adoption of new treaties on weapons of real military significance, such as chemical weapons and land mines, demonstrates that it is possible to develop legal regimes which, if they are made to function properly, can have a significant impact in protecting the values of humanitarian law. Similarly, the Advisory Opinion on Nuclear Weapons, whatever its shortcomings, shows that the general principles of the law are capable of developing in such a way that they can be applied to new types of weapon. How then is the law likely to evolve as we enter the new millennium?

The outline of two developments is already visible. First, the trend of extending the law of weaponry from international'armed conflicts to conflicts within States is likely to prove irreversible. Application to such conflicts has already been the subject of express provision in the two latest agreements on land mines and the Chemical Weapons Convention. In addition, the logic of the position taken by the International Criminal Tribunal for the Former Yugoslavia in the Took case and the general trend towards the development of the law of internal conflicts means that most, if not all, of the law of weaponry is likely to become applicable in internal conflicts in time. There is every reason why this should be so. While arguments against extending parts of the law of international armed conflicts, such as those which create the special status of prisoners of war, to internal hostilities have some force, there is no compelling argument for accepting that a government may use weapons against its own citizens which it is forbidden to use against an international adversary, even in an extreme case of national self,defense.

Secondly, it seems probable that the concept of penal sanctions for those who violate the law of weaponry will become far more important in the future. The Chemical Weapons Convention and the 1997 Land Mines Convention both make express provision for the enactment of criminal sanctions.161 Certain violations of the principle of distinction are included in the grave breaches regime by Additional Protocol I, Article 85. Moreover, any serious violation of the laws of war is already a war crime and this would include a serious violation of one of the weaponry treaties or a general principle such as that prohibiting unnecessary suffering. However, the existence of the two ad hoc criminal tribunals and the development of their jurisprudence, together with the likelihood of a future permanent international criminal court with an extensive war crimes jurisdiction, means that these sanctions are likely to be far more significant in the future. How far this is a desirable development is another matter. While the present writer strongly supports the principle of effective criminal sanctions for violations of the law of armed conflict, it has been seen that the general principles of the law of weaponry-and, indeed, some of the specific provisions-are far from clear or easy to apply. It would be quite wrong to hold individual servicemen, especially low down the chain of command, criminally responsible for the good faith use of weapons with which their government has provided them. Moreover, the preparatory talks on the international criminal court have shown a disturbing tendency to try to use the negotiation of the Court's statute as a way of revising the substantive law on weaponry, thus risking upsetting the work of more specialized conferences. It is less easy to speculate as to what weapons might be made the subject of new agreements for the prohibition or limitation of their use. Incendiary weapons, fuel,air explosives, and napalm have all attracted considerable opprobrium over the last part of the twentieth century and are likely to face further calls for their limitation or outright prohibition. The precedent of the campaign against land mines, which attracted far greater publicity than do most developments in the law of armed conflict, suggests that future calls for changes in the law of weaponry may come as much from NGOs and public opinion as from governments. Such a change is both desirable and in keeping with the spirit of the Martens Clause. It carries the danger, however, that some of these calls will be unrealistic both in failing to recognize that States must be able to defend themselves and in the expectations which they create about what can be achieved.

One of the most important issues is likely to be the future of nuclear weapons. The inconclusive Opinion of the International Court of Justice included a unanimous finding that:

There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international controI.162

Although this paragraph adds little of substance to the Non-Proliferation Treaty, it has already led to calls for fresh negotiations on nuclear disarmament. In this writer's view, attempts to achieve a ban on the use of nuclear weapons are unlikely to succeed in the foreseeable future and would probably prove counter~productive in that they will block progress in other areas (as happened with attempts to reform the law of armed conflict in the 1950's). As far as the possession of nuclear weapons is concerned, a ban is likely to prove possible only if all the nuclear~weapons States (declared and undeclared) support it, and such a result could not be achieved without simultaneous progress on a range of related security issues.

One of the most important developments may well prove to be the application to new types of weaponry of the existing general principles. The Advisory Opinion in the Nuclear Weapons case has demonstrated that these principles are capable of being applied to weapons of a kind which was beyond contemplation when those principles were first developed. The flexibility of the general principles thus makes them of broader application than the specific provisions which are all too easily overtaken by new technology. If the speed of change in military technology continues into the next century (as seems almost inevitable),163 that capacity to adapt is going to be ever more important.

Take one example. Suppose that it became possible for a State to cause havoc to an enemy through the application of electronic measures or the selective planting of computer viruses which brought to a standstill whole computer systems and the infrastructure which depended upon them. Such a method of warfare would appear to be wholly outside the scope of the existing law. Yet that is not really so. The application of those measures, though not necessarily an "attack" within the meaning of Additional Protocol I because no violence need be involved,164 is still likely to affect the civilian population and possibly to cause great damage and even loss of life amongst that population. As such, it should be subject to the same principles of distinction and proportionality considered above.

The application of the general principles of such forms of warfare would, however, require a measure of refinement of those principles. The place in the concept of proportionality which should be given to indirect, less immediate harm to the civilian population would have to be resolved. Similarly, if the principle of distinction is to be applied to existing, let alone new, weapons of naval warfare, a clearer assessment needs to be made of exactly what constitutes a legitimate target in naval hostilities. Both the military and humanitarian aspects of the unnecessary suffering principle need to be clarified if that principle is to have a significant impact in the assessment of new methods and means of warfare. The duty which States have to scrutinize developments in weaponry and to assess whether any new weapons or methods of warfare comply with the law 165 means that the resolution of such questions is a matter of considerable importance.

In this writer's opinion, it is both more probable and more desirable that the law will develop in this evolutionary way than by any radical change. With the law of weaponry, as with most of the law of armed conflict, the most important humanitarian gain would come not from the adoption of new law but the effective implementation of the law that we have. That should be the priority for the next century.

**AND – the mine ban treaty is effective as a precedent against civilian casualties. It re-vamps the LOAC rule of distinction.**

Docherty 10 (Bonnie, “Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law”, Austrian Review of International and European Law 15: 7-44, 2010. © 2013 Koninklijke Brill NV. Printed in the Netherlands.)

C. A Humanitarian Imperative: The Mine Ban Treaty

The Mine Ban Treaty, the first humanitarian disarmament instrument, took a dramatic step by defining its purpose primarily in terms of humanitarian concerns. Its preamble opens with a strong paragraph that highlights the extent of civilian suffering from landmines:

States Parties [are d]etermined to put an end to the suffering and casualties caused by anti-personnel mines, that kill or maim hundreds of people every week, mostly innocent and defenceless civilians and especially children, obstruct economic development and reconstruction, inhibit the repatriation of refugees and internally displaced persons, and have other severe consequences for years after emplacement.

This paragraph paints a vivid picture of the problem with references to numbers (mines cause hundreds of casualties per week), descriptions of effects (death and maiming), and the characterization of civilians as ‘innocent and defenceless’. Civilian victims of war are the primary focus of the convention.

In that same paragraph, the Mine Ban Treaty takes a stronger stance against humanitarian harm than the CCW does. According to the CCW’s preamble, states parties merely ‘recall’, i.e., bear in mind, the principle of civilian protection, without pledging to take any related actions. States parties to the Mine Ban Treaty declare they are ‘determined to put an end to’ civilian suffering caused by a specific type of weapon.

Two other preambular paragraphs underscore the humanitarian orientation of the Mine Ban Treaty. One paragraph highlights the importance of victim assistance, noting that states parties wish ‘to do their utmost in providing assistance for the care and rehabilitation, including the social and economic reintegration of mine victims’. This concern for victims, most of whom are civilians, has no precedent in security or hybrid disarmament. The other paragraph ‘stress[es] the role of public conscience in furthering the principles of humanity as evidenced by the call for a total ban of anti-personnel mines’. It links the treaty’s absolute ban to the principles of humanity.

While the security and hybrid disarmament treaties discussed above hark back to the UN Charter, the Mine Ban Treaty includes no reference to it. Instead it is based on international humanitarian law., Like the humanitarian clauses in the CCW’s preamble it refers to the limitations on means and methods of war and the prohibition of superfluous injury and unnecessary suffering. These rules can benefit civilians, although they were originally designed to protect soldiers.52 The Mine Ban Treaty clarifies its reasons for relying on international humanitarian law by adding a reference to the rule of distinction. Distinction is concerned specifically with minimizing civilian harm.

**The MBT’s strong non-vague wording, civilian, and superfluous injury provision is key to future weapons precedent**

Docherty 10 (Bonnie, “Ending Civilian Suffering: The Purpose, Provisions, and Promise of Humanitarian Disarmament Law”, Austrian Review of International and European Law 15: 7-44, 2010. © 2013 Koninklijke Brill NV. Printed in the Netherlands.)

The development of disarmament law’s provisions has advanced in a similar direction as its purposes. As a comparison of the 1990s case studies shows, the Mine Ban Treaty draws in part from both the Chemical Weapons Convention and CCW Amended Protocol II. The Mine Ban Treaty, however, not only adapts, merges, and strengthens precedent but also adds new obligations to realize its aim of ending civilian suffering from anti-personnel mines. In so doing, it establishes three types of provisions characteristic of disarmament instruments with a primarily humanitarian purpose: absolute preventive obligations; civilian-centered remedial measures; and cooperative approaches to implementation. By adopting such comprehensive and unqualified provisions, humanitarian disarmament has increased the ability of international law to limit the harmful effects of weapons.

A. Absolute Preventive Obligations

Humanitarian disarmament treaties contain absolute preventive measures, which seek to prevent civilian harm by eliminating specific weapons. Article 1 of the Mine Ban Treaty categorically bans use, production, transfer, and stockpiling of anti-personnel landmines as well as assistance with any of those activities.58 States parties may ‘never under any circumstances’ engage in these activities. The phrase ‘under any circumstances’ covers international and non-international armed conflicts as well as situations that do not rise to the level of armed conflict. Article 1(1)(b) prohibits production, transfer, and stockpiling that is either ‘direct or indirect’. The bans on transfer and assistance apply to ‘anyone’; in other words, states parties may not transfer to or assist other states parties, states not party, or non-state actors such as corporations or non-state armed groups.

The Mine Ban Treaty also requires destruction of stockpiles, which further advances the goal of eliminating anti-personnel landmines. Article 1(2) places destruction of all mines on the list of general obligations that includes the prohibitions.59 Article 4 obliges each state party to ‘destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control’. The state party must do so ‘as soon as possible but not later than four years’ after the treaty enters into force for the party.

The Mine Ban Treaty implicitly requires elimination of production facilities, another preventive measure. Although the treaty does not include a specific article dedicated to the topic, the prohibition on production can be interpreted to necessitate destruction of the facilities that produce. Article 7 on Transparency Measures supports this understanding because it mandates that states parties report on ‘the status of programs for the conversion or decommissioning of anti-personnel mine production facilities’. It thus suggests an obligation to convert or decommission.60

The Mine Ban Treaty modeled its provisions related to prevention on those in the Chemical Weapons Convention.61 The latter convention’s Article 1 on General Obligations uses almost identical language in layingout absolute prohibitions on use, production, transfer, and stockpiling. It too employs the phrase ‘never under any circumstances’ and bans direct and indirect transfer ‘to anyone’.62 The Chemical Weapons Convention provided the exact wording for the Mine Ban Treaty’s provision on assistance. It also includes among its general obligations a requirement to destroy stockpiled and abandoned chemical weapons and production facilities. While the Chemical Weapons Convention and the Mine Ban Treaty were conceived for security and humanitarian purposes, respectively, they share absolute preventive provisions.

CCW Amended Protocol II adopts a more complicated, qualifi ed, and narrow approach to prevention of civilian harm. It establishes elaborate regulations for anti-personnel mines, booby-traps, and other devices, but it does not ban them as a class. It generally prohibits use of these devices when it causes superfluous injury or unnecessary suffering, targets civilians, or fi ts the definition of indiscriminate.63 Specific technical distinctions serve as the basis for the rest of Amended Protocol II’s restrictions. While the protocol prohibits use of mines with anti-handling devices and those that are not detectable,64 it merely limits the use of other types of mines. For example, the protocol allows non-remotely delivered anti-personnel mines even without self-destruct and self-deactivation devices if they are placed in a perimetermarked and monitored area that is cleared before abandonment.65 Remotely delivered anti-personnel mines must have self-destruct and self-deactivation devices but do not require marking.66 Furthermore, while Amended Protocol II’s regulations address use, production, and transfer, they do not deal with stockpiling. These partial regulations weaken the impact of the protocol.

Amended Protocol II combined humanitarian and security purposes, but in the end they were at odds. Amended Protocol II exhibits some concern for civilians in its regulations. For example, the requirement to perimeter mark and monitor certain non-remotely delivered mines when they are laid is ‘to ensure the effective exclusion of civilians from the area’.67 Negotiating states’ interests in their own security, however, ultimately rendered impossible the absolute ban required for a comprehensive humanitarian response. Major military powers did not view landmines, which are defensive weapons, as a threat to their security; by contrast, they argued they needed mines to protect their interests and blocked efforts to produce a stronger instrument.68

The Mine Ban Treaty elevated concern for protecting civilians to a level previously reserved for maintaining security. When faced with the extensive suffering anti-personnel landmines cause, it imposed an absolute ban on use, production, transfer, and stockpiling. The Mine Ban Treaty responded to the harm infl icted by conventional weapons in the same way that security disarmament conventions had approached the threat of weapons of mass destruction, a narrower category of arms. In so doing, it opened the door to more rigorous controls of a wider class of weapons.

**Lack of revamp of LOAC will make a host of new conflicts inevitable – they will all result in extinction.**

Jensen 14 (Eric Talbot Jensen, Associate Professor, Brigham Young University Law School, “THE FUTURE OF THE LAW OF ARMED CONFLICT: OSTRICHES, BUTTERFLIES, AND NANOBOTS”, 35 Michigan Journal of International Law (forthcoming 2014)

A. Places

The traditional paradigm of armed conflict assumes that at any given time, it will be readily apparent where the armed conflict is taking place, and where it is not. To put it another way, the traditional paradigm assumes clear spatial boundaries between zones of war and zones of peace.50

For the entire history of mankind, armed conflict has been confined to “breathable air” zones – the land, the surface of the ocean, and recently the air above the land in which land-based aircraft can fly. Additionally, the post-Westphalian system was built on the foundation of state sovereignty and clear demarcation and control of borders.51 Armed conflicts occurred within specific spatial and temporal limits. As a result, the laws governing armed conflict have been built around certain presumptions about where armed conflict will occur. In the future, these presumptions will no longer be true. The LOAC will have to adjust to account for the emerging factors affecting where armed conflicts take place.

1. Emerging Factors

As technology advances, armed conflict will no longer be restricted to breathable air zones. Instead, it will occur without respect to national borders,underground, on the seabed, in space and on celestial bodies such as the moon, and across the newly recognized domain of cyberspace.52

a. Global Conflict

The phenomena of global conflict has already begun to stress the LOAC 53 as the United States has struggled to confront a transnational non-state terrorist actor who does not associate itself with geographic boundaries. As will be discussed in Section B. Actors, the transnational linkage between otherwise unconnected individuals that will generate armed conflict is going to exponentially increase. The ability to communicate globally through social media will produce organized (armed) groups who will not be bound by geographic boundaries and will not see themselves as representing a specific geographic collective. Rather, the boundaries will revolve around affiliations, interests, and ideologies. As Mack Owens has written, “Thus multidimensional war in the future is likely to be characterized by distributed, weakly connected battlefields; unavoidable urban battles and unavoidable collateral damage exploited by the adversary’s strategic communication; and highly vulnerable rear areas. On such battlefields, friends and enemies are commingled, and there is a constant battle for the loyalty of the population.”54

This issue is amply illustrated through the U.S. practice of drone strikes on terrorists associated with al-Qaeda but not located in Afghanistan.55 The focused outcry about the U.S’s reliance on armed conflict authorities outside the geographic confines of the recognized battlefield56 highlights the current paradigm’s assumptions about the LOAC’s applications to territory. As global communications allows participants in armed conflict to be more widely dispersed across the world, it is unlikely that States will allow themselves to be attacked from transnational actors because they are not located within a specific geographic region that has been designated as the “battlefield.”

b. Seabed

Currently the seabed and even non-surface waters have seen very little armed conflict.57 Submarine vessels have engaged surface vessels but there has been almost no conflict between submarines and none from the seabed. This is likely to change dramatically with technological improvements. For example, China has developed submersibles that can reach 99.8 percent of world’s seabed.58 As more and more underwater vehicles become unmanned, the need for breathable air dissipates. Underwater drones will eventually become armed and underwater engagements will quickly follow.

Similarly, the seabed will quickly become militarized, once the need for air is erased. Not only will sensors be used to track surface and subsurface traffic, but armaments will soon follow and the seabed will become another area where States will employ weapons systems.

c. Subterranean

Similar to the seabed, the ability to place weapons systems under ground and employ them effectively against an enemy is beginning to develop.59 Not only will underground weapons attack surface targets, but they will also be used to create surface effects through underground explosions and other means of manipulation. This will include the creation of earthquakes, tsunamis, and other surface effects that will severely affect an enemy. This is currently an unweaponized portion of the earth,60 but it will not remain so in the future.

d. Space and Celestial Bodies

Space and the free use of space have become vital to the functioning of the modern military. In fact, “A Government Accountability Office report . . . showed major Defense space acquisition programs ‘have increased by about $11.6 billion’ – 321 percent – from initial estimates for fiscal years 2011 through 2016.”61

U.S. Air Force Gen. William Shelton, who is the head of Space Command, recently stated that “Our assured access to space and cyberspace is foundational to today’s military operations and to our ability to project power whenever and wherever needed across the planet.” 62 Similarly, Army Lt. Gen. Richard Formica stated “If the Army wants to shoot, move or communicate, it needs space.”63 Formica added that because of the Army’s dependency on these systems, they “have to be defended.”64

These quotes refer mostly to the use of satellites, but use of the moon and potentially other celestial bodies will soon follow.65 Space systems such as satellites can be defended and attacked both from space and from the ground. Both China and the U.S. have conducted recent anti-satellite operations and established that both have that capability.66 Space has already begun to be weaponized 67 and that trend will continue and increase in speed and lethality.

e. Cyberspace

Much has already been written about cyberspace. The Chinese have created a separate department of their military to handle the military aspects of cyberspace.68 The United States recently created Cyber Command to specifically plan and control U.S. military cyber operations.69 Army General Alexander not only commands Cyber Command but also heads the National Security Agency.70 Currently, 140 nations either already have or are actively building cyber capabilities within their military,71 with Brazil being one of the most recent to make that decision.72

Recent revelations concerning Stuxnet and Flame make it clear that Nations are already using cyber space to conduct military activities that cause harm similar to kinetic operations. Nations are also stealing technologies and trade secrets through cyber operations.73 These cyber thefts have not yet been equated with an attack, but may be so treated in the future as the seriousness of the thefts continues and increases. Cyber space has certainly been militarized by States and will continue to be so, and on an increasing basis.74

One of the most important aspects of cyber space, is that unlike the weaponization of space or the seabed, it does not require a nation to conduct “military” activities in cyberspace. There are numerous examples of private hackers, organized groups and business organizations using the internet to do great harm to both private and public entities. The accessibility of the militarization of cyberspace make it somewhat unique in the future of armed conflict which will be discussed below.

Most important for this discussion is the lack of boundaries in cyberspace. While the computer used to conduct the “attack” must be in one geographic location and work through a server in a specific geographic location, the lethal electrons will traverse many nations in their path to the requested destination. Further, to this point, states have been unwilling to take responsibility for cyber “attacks” that emanate from within their geographic boundaries,75 leaving only criminal process as the means of seeking redress for non-state actor sponsored attacks, a process which has seldom proven successful.76

**Existential risk that outweighs all others.**

Treder and Phoenix 07 (Mike, consultant to the Millennium Project of the American Council for the United Nations University and to the Future Technologies Advisory Group, Chris, CRN’s directory of research,Center for Responsible Nanotechnology, Results of Our Ongoing Research, April 16, <http://www.crnano.org/overview.htm>)

Nanotech weapons would be extremely powerful and could lead to a dangerously unstable arms race. Molecular manufacturing raises the possibility of horrifically effective weapons. As an example, the smallest insect is about 200 microns; this creates a plausible size estimate for a nanotech-built antipersonnel weapon capable of seeking and injecting toxin into unprotected humans. The human lethal dose of botulism toxin is about 100 nanograms, or about 1/100 the volume of the weapon. As many as 50 billion toxin-carrying devices—theoretically enough to kill every human on earth—could be packed into a single suitcase. Guns of all sizes would be far more powerful, and their bullets could be self-guided. Aerospace hardware would be far lighter and higher performance; built with minimal or no metal, it would be much harder to spot on radar. Embedded computers would allow remote activation of any weapon, and more compact power handling would allow greatly improved robotics. These ideas barely scratch the surface of what's possible. An important question is whether nanotech weapons would be stabilizing or destabilizing. Nuclear weapons, for example, perhaps can be credited with preventing major wars since their invention. However, nanotech weapons are not very similar to nuclear weapons. Nuclear stability stems from at least four factors. The most obvious is the massive destructiveness of all-out nuclear war. All-out nanotech war is probably equivalent in the short term, but nuclear weapons also have a high long-term cost of use (fallout, contamination) that would be much lower with nanotech weapons. Nuclear weapons cause indiscriminate destruction; nanotech weapons could be targeted. Nuclear weapons require massive research effort and industrial development, which can be tracked far more easily than nanotech weapons development; nanotech weapons can be developed much more rapidly due to faster, cheaper prototyping. Finally, nuclear weapons cannot easily be delivered in advance of being used; the opposite is true of nanotech. Greater uncertainty of the capabilities of the adversary, less response time to an attack, and better targeted destruction of an enemy's visible resources during an attack all make nanotech arms races less stable. Also, unless nanotech is tightly controlled, the number of nanotech nations in the world could be much higher than the number of nuclear nations, increasing the chance of a regional conflict blowing up.

**Absent resolving issues with non-combantant involvement in conflict – LOAC will collapse when dealing with future weapons**

Jensen 14 (Eric Talbot Jensen, Associate Professor, Brigham Young University Law School, “THE FUTURE OF THE LAW OF ARMED CONFLICT: OSTRICHES, BUTTERFLIES, AND NANOBOTS”, 35 Michigan Journal of International Law (forthcoming 2014)

2. Emerging Law

The section above has touched only briefly on some of the emerging factors regarding actors on the battlefield that will place stresses on the LOAC in future armed conflicts. Anticipating these emerging factors, the law will need to evolve to respond to technological developments and signal appropriate regulation.

a. Attack

The proscription dealing with civilians is against making them the object of “attack.” The meaning of attack is defined in GPI as “acts of violence against the adversary, whether in offence or in defence.”162 The strict reading of this treaty language is that civilians are only protected from acts of violence. As clearly argued by Paul Walker, most cyber activities will not reach the threshold of an attack,163 meaning they are not proscribed. Cyber (and other) activities that cause mere inconvenience are legitimate, even when directed at the civilian population.164 This argument will arise again below under means and methods of warfare because there are any number of potential or future weapons that will likely fall under the threshold of an “act of violence.” If so, as a matter of targeting, civilians are not protected from these activities that do not amount to an attack.

For example, recalling the scenario from the beginning of the article, it is unclear whether the voluntary ingestion of a pill or even the inhalation of a nanobot would be considered an attack. Likewise, it is unclear that infection with a flu-like virus or even a viral gene alteration that had no effect on an individual would be considered an attack. Therefore, under the current LOAC, such activities may be permitted.

One might argue that Article 51 of GPI requires that “[t]he civilian population and individual civilians shall enjoy general protection against dangers arising from military operations,”165 and “military operations” is a category much broader than “attacks.” However, even article 51 only protects civilians against “dangers,” a term that is not clearly defined and might not include flu-like symptoms. Similarly, article 57.1 states that “In the conduct of military operations, constant care shall be taken to spare the civilian population, civilians and civilian objects.”166 The commentary defines military operations as “any movements, manoeuvres and other activities whatsoever carried out by the armed forces with a view to combat,”167 but does not explain what it means to “spare” the population or define “constant care.”168

With the future development of weapons that will undoubtedly fit below the attack threshold of “acts of violence,” it will be important to clarify the LOAC as it pertains to targeting of civilians as actors in armed conflict. If the LOAC is designed to protect civilians from the effects of armed conflict, more detail is necessary here.

#### War in space occurs through miscalculation, risks extinction

Mitchell, et al 1 -Associate Professor of Communication and Director of Debate at the University of Pittsburgh, Dr. Gordon, ISIS Briefing on Ballistic Missile Defence, “Missile Defence: Trans-Atlantic Diplomacy at a Crossroads”, No. 6 July, <http://www.isisuk.demon.co.uk/0811/isis/uk/bmd/no6.html>)

A buildup of space weapons might begin with noble intentions of 'peace through strength' deterrence, but this rationale glosses over the tendency that '… the presence of space weapons…will result in the increased likelihood of their use'.33 This drift toward usage is strengthened by a strategic fact elucidated by Frank Barnaby: when it comes to arming the heavens, 'anti-ballistic missiles and anti-satellite warfare technologies go hand-in-hand'.34 The interlocking nature of offense and defense in military space technology stems from the inherent 'dual capability' of spaceborne weapon components. As Marc Vidricaire, Delegation of Canada to the UN Conference on Disarmament, explains: 'If you want to intercept something in space, you could use the same capability to target something on land'. 35 To the extent that ballistic missile interceptors based in space can knock out enemy missiles in mid-flight, such interceptors can also be used as orbiting 'Death Stars', capable of sending munitions hurtling through the Earth's atmosphere. The dizzying speed of space warfare would introduce intense 'use or lose' pressure into strategic calculations, with the spectre of split-second attacks creating incentives to rig orbiting Death Stars with automated 'hair trigger' devices. In theory, this automation would enhance survivability of vulnerable space weapon platforms. However, by taking the decision to commit violence out of human hands and endowing computers with authority to make war, military planners could sow insidious seeds of accidental conflict. Yale sociologist Charles Perrow has analyzed 'complexly interactive, tightly coupled' industrial systems such as space weapons, which have many sophisticated components that all depend on each other's flawless performance. According to Perrow, this interlocking complexity makes it impossible to foresee all the different ways such systems could fail. As Perrow explains, '[t]he odd term "normal accident" is meant to signal that, given the system characteristics, multiple and unexpected interactions of failures are inevitable'.36 Deployment of space weapons with pre-delegated authority to fire death rays or unleash killer projectiles would likely make war itself inevitable, given the susceptibility of such systems to 'normal accidents'. It is chilling to contemplate the possible effects of a space war. According to retired Lt. Col. Robert M. Bowman, 'even a tiny projectile reentering from space strikes the earth with such high velocity that it can do enormous damage — even more than would be done by a nuclear weapon of the same size!'. 37 In the same Star Wars technology touted as a quintessential tool of peace, defence analyst David Langford sees one of the most destabilizing offensive weapons ever conceived: 'One imagines dead cities of microwave-grilled people'.38 Given this unique potential for destruction, it is not hard to imagine that any nation subjected to space weapon attack would retaliate with maximum force, including use of nuclear, biological, and/or chemical weapons. An accidental war sparked by a computer glitch in space could plunge the world into the most destructive military conflict ever seen.

### Plan

#### PLAN: The United States federal government should ratify the Mine Ban Treaty to prohibit the introduction of anti-personal landmines into hostilities.

## 2AC

**It’s the most effective way to deal with threats**

Powell 03 (Lindsey Powell, works at Yale Center for Environmental Law and Policy, “In Defense of Multilateralism”, yale center of environmental law and policy, October 25, 2003, <http://www.yale.edu/gegdialogue/docs/dialogue/oct03/papers/Powell.pdf>)

What I hope to have demonstrated in this paper is that multilateralism offers both a short-term utilitarian value insofar as it provides developing states with a greater voice in international matters, enables developed states to synchronize implementation of new environmental and economic policies, and facilitates mutually beneficial trade-offs between developed and developing states. More important than these short-term benefits, however, is the promise of multilateralism to provide the most tempered, egalitarian, and sustainable future. As Forman succinctly states, "in this age of accelerated globalization, multilateralism offers the most effective means to realize common goals and contain common threats."24 The issues raised by critics can all be answered. Questions of bureaucracy and global government can be resolved through thoughtful design and careful monitoring of multilateral organizations. The introduction of centralized bodies to international negotiations is not intended to challenge the sovereign power of states, but rather to achieve through cooperation those things that no state can achieve on its own. Multilateral institutions do not need to interfere with market operation, but can rather introduce mechanisms that make that operation better reflect the costs involved and thus make it more efficient.. The transboundary nature of current global environmental issues makes them the concern, whether recognized or not, of every single nation on the planet. The contribution of the United States to the creation of such issues is too great for any group of nations to successfully address without US cooperation. We are at a critical point in our dealings with these problems, as, with the implementation of cleaner technology and adjustments in levels and types of consumption, we could likely repair much of the damage already inflicted and prevent much future damage. However, as long as these issues are not effectively addressed, the quality of the air we breathe will continue to deteriorate, fisheries will become depleted, once rich fields will lie barren and salinated, and old growth forests will disappear. Multilateralism not only represents the most efficient, most effective, and most egalitarian approach to addressing global environmental issues, it is quite simply the only approach that brings with it the authority, legitimacy, and resources required to tackle so vast and complex a problem.

### AT: T

**1. We meet and CI--- USAF includes munitions, armor, and armor-piercing projectiles**

**Department of Military Affairs, No Date** (Department of Military Affairs, Montana State Government Official Website, http://montanadma.org/depleted-uranium)

The **United States Armed Forces** includes depleted uranium (DU) in the manufacture of certain **munitions,** armor and armor-piercing projectiles, and these were used in large scale - for the first time - during the 1991 Gulf War. Because of its radioactive qualities, there is an increasing interest in what DU is, what it is used for, and its health hazards to those who have been exposed to it.

**“In” indicates within a place or limits**

**Random House Dictionary 2012**

1. (used to indicate inclusion within space, a place, or limits): walking in the park.

**Area means a section defined by its SUBJECT – so within HISTORY professors have areas of specialty. Just like within WAR POWERS there are AREAS.**

**VOCABULARY.COM** [<https://www.vocabulary.com/dictionary/area?family=areas>]

area

The area is a part of a place, usually defined by a function. If you can't stop talking, don't sit in the quiet area of the library.

In Latin, area means a vacant piece of ground, but we use it in English to talk about a region or place that's a subset of another larger region. The boarding area in the airport is the space right next to the door. Area is also used to describe topics or subjects of study or work. Within a big history department, professors have different areas of specialty,

**About seabed authority --- not relevant**

**Begs the question of authority requires reducing the permission to act, not the ability to act.**

**Taylor, 1996**  (Ellen, 21 Del. J. Corp. L. 870 (1996), Hein Online)

The term authority is commonly thought of in the context of the law of agency, and the Restatement (Second) of Agency defines both power and authority.'89 Power refers to an agent's ability or capacity to produce a change in a legal relation (whether or not the principal approves of the change), and authority refers to the power given (permission granted) to the agent by the principal to affect the legal relations of the principal; the distinction is between what the agent can do and what the agent may do.

**2. No limits DA -- functional limits like authority and the xo CP check small weapons affs**

**3. Prefer it**

**a) Overlimits -- their interpretation kills one quarter of the topic -- no aff limits people without weapons, or their offense is inevitable**

**b) Topic education -- Libya proves weaponry components are core USAF ground**

**c) Predictability -- no brightline for what weapon/machine components are topical under their interpretation, makes aff innovation impossible No offense – they allow infinite PICs—means the aff has to do that research – collapses the research burden for the aff because of the number of different armed forces – aff resreach burden outweighs – neg block, condo, and strength of historical precedent for circumvention and critiques means you should err aff.**

**Reasonability -- competing interps are arbitrary and create a race to the bottom**

### AT: CIC

**1. No violation -- you have to prove we aren't commander in chief**

**Authority includes equipment usage**

**Dellinger 95** - Assistant Attorney General of the US for the Office of Legal Counsel [Walter Dellinger (Professor of Law @ Duke University), “After the Cold War: Presidential Power and the Use of Military Force, 50 University of Miami Law Review 107-119 (1995).

First, the President has the well-recognized power to deploy and redeploy United States forces. By a network of legislation, Congress has created a large standing army and given the President the means to send that force all over the world. As Attorney General (later Justice) Robert Jackson wrote, "the President's responsibility as Commander in Chief embraces the authority to command and direct the armed forces in their immediate movements and operations designed to protect the security and effectuate the defense of the United States. . . . [T]his authority undoubtedly includes the power to dispose of troops and equipment in such manner and on such duties as best to promote the safety of the country."25 . Pg. 113-14

**All the other answers apply**

### AT: CP

**No uniquenss – they ruled just now**

 ROBERT KOZAK and RYAN DUBE 1/27/14 (Wall street journal, “Court Awards Large Patch of Pacific to Peru”, <http://online.wsj.com/news/articles/SB10001424052702303277704579346682451335434>

LIMA, Peru—Chile lost a swath of rich fishing grounds to its neighbor Peru after the International Court of Justice settled a decades-old dispute by fixing a new maritime border between the two countries.

The United Nations's main judicial arm on Monday granted Peru about 19,000 square miles of Pacific Ocean, about the size of Maryland and Delaware put together, in waters rich in anchovies, used to make fish-meal, a lucrative export. Both countries promised to respect the ruling.

**Pakistan backlashing now to the ICJ**

AuthentMail 2/17/14 (“Pakistan to take Afzal Guru's execution to The Hague court

- See more at: https://www.authintmail.com/article/kashmir/pakistan-take-afzal-gurus-execution-hague-court#sthash.1h0Xf8vO.dpuf)

ISLAMABAD — Ministry of Kashmir Affairs has asked the Foreign Office to take the execution of Kashmiri freedom fighter Afzal Guru to the International Court of Justice (ICJ) on the ground that he was not given a fair trial.

**Perm do the CP**

**RESTRICTION is a regulation that limits the use**

WEBSTER’S DICTIONARY OF LAW 01 [Merriam-Webster's Dictionary of Law, <http://research.lawyers.com/glossary/restriction.html>]

Restriction

Definition - Noun

1 : something that restricts: as

a : a regulation that restricts or restrains

b : a limitation on the use or enjoyment of property or a facility

2 a : an act of restricting

b : the state of being restricted

**Should doesn’t mean immediate—you could say “I need some bread, I should go to the store tomorrow.” Also—should doesn’t imply certainty.**

**ADS, 99** [Atlas Daq Software.com], 1/24/1999. http://rd13doc.cern.ch/Atlas/DaqSoft/sde/inspect/shall.html.

shall

'shall' describes something that is mandatory. If a requirement uses 'shall', then that requirement \_will\_ be satisfied without fail. Noncompliance is not allowed. Failure to comply with one single 'shall' is sufficient reason to reject the entire product. Indeed, it must be rejected under these circumstances.

Examples: "Requirements shall make use of the word 'shall' only where compliance is mandatory." This is a  good example.  "C++ code shall have comments every 5th line." This is a bad example. Using 'shall' here is too strong.

Should 'should' is weaker. It describes something that might not be satisfied in the final product, but that is desirable enough that any noncompliance shall be explicitly justified. Any use of ‘should' should be examined carefully, as it probably means that something is not being stated clearly. If a 'should' can be replaced by a 'shall', or can be discarded entirely, so much the better. Examples: "C++ code should be ANSI compliant." A good example. It may not be possible to be ANSI compliant on all  platforms, but we should try. "Code should be tested thoroughly."

Bad example. This 'should' shall be replaced with 'shall' if this requirement is to be stated anywhere (to say nothing of defining what  'thoroughly' means).

### AT: PTX

**U overwhelms - Bill won’t get a vote**

MSNBC 2 – 4 – 14 [Senate effectively scraps Iran sanctions bill, <http://www.msnbc.com/rachel-maddow-show/senate-effectively-scraps-iran-sanctions-bill>]

A month ago, proponents of a bipartisan bill on new Iranian sanctions had reason to be optimistic. Despite White House arguments that the bill risked sabotaging delicate international diplomacy, the Senate bill had 59 co-sponsors. The question wasn’t whether the bill would pass the Senate, but rather, whether it could garner a veto-proof super-majority.

The tide turned quickly. Last week, some of the Senate Democrats who had endorsed the legislation began backing off. And this week, supporters effectively shelved the entire bill.

Proponents of Iran sanctions have all but abandoned their search for a highly symbolic 60th co-sponsor who would give their bill a filibuster-proof majority and reverse the push against immediate action.

The number of Democrats and Republicans on the bill has been stuck at 59 for more than three weeks, with the White House effectively locking up the Democratic Caucus with a threat to veto a bill it says could doom nuclear talks and precipitate war.

Even the list of 59 co-sponsors is misleading given recent developments. Sen. Joe Manchin (D-W.Va.) told MSNBC’s Chris Matthews last week, “I did not sign it with the intention that it would ever be voted upon or used upon while we were negotiating,”, adding, “[W]e’ve got to give peace a chance here and we’ve got to support this process.” Soon after, Sens. Chris Coons (D-Del.) and Kirsten Gillibrand (D-N.Y.) said they, too, were prepared to give the Obama administration time to pursue a peaceful solution. By the end of the weeks, Sens. Ben Cardin (D-Md.) and Richard Blumenthal (D-Conn.) were also comfortable with a delay.

 All are technically still considered co-sponsors, but it’s clear that support for the sanctions bill has slowly collapsed. It’s not that the legislation is poised for defeat; it’s that the measure won’t even get a vote anytime soon.

**The losers lose link is backwards --- no defections because the plan has massive bipartisan support**

**Whitlock and Kessler 10** (Craig Whitlock, Glenn Kessler, Washington Post, “Senate Pushes Obama Administration to Sign Treaty Banning Land Mines,” May 8, 2010, http://www.washingtonpost.com/wp-dyn/content/article/2010/05/07/AR2010050705089.html)

White House and State Department spokesmen emphasized Friday that the administration is in the midst of a comprehensive review, cutting across all affected agencies, that will not be completed for some months. But two senior U.S. officials speaking on the condition of anonymity indicated that the administration is actively looking for ways to come into compliance with the treaty without endangering national security needs. "We are asking that if you come into compliance, what would be the costs and the benefits -- and if there are costs, how can they be addressed in other ways," one senior official said. The official described the administration's review as "a herculean effort" intended to "cut through reflexive reactions" to the issue of eliminating land mines from the Pentagon's arsenal. Officials also said they welcomed the indication of **bipartisan support** represented by the Leahy letter. Another senior U.S. official, speaking on the condition of anonymity to discuss internal deliberations, said the administration is looking at what new technologies could be used to bring the United States into compliance with the treaty while also allowing it to respond to threats such as North Korea. Some military officials want to maintain the U.S. stockpile in case it is needed to slow an invasion of South Korea by the North. About 30,000 U.S. forces are stationed in the South. The Pentagon declined to say whether it would support the treaty, citing the Obama administration's review. "It would be premature at this time to provide any statement until the review is complete," said Geoff Morrell, the Pentagon press secretary. Leahy, who has fought for a land-mine ban for many years, said there was **bipartisan support** in Congress for ratifying the treaty. Ten Republicans have signed the letter to Obama, which Leahy said will be delivered to the White House next week. The lead Republican co-sponsor is Sen. George V. Voinovich (Ohio), Leahy aides said.

**Plan already has the votes – wouldn’t require ANY capital**

AFP 5 – 19 – 10 US senators send letter to Obama urging landmine ban [<http://www.google.com/hostednews/afp/article/ALeqM5gO2F54cnaviWfKUjbPtz1_fatQXw>]

Two out of three US Senators sent a letter to President Barack Obama urging him to work toward the ratification of the 1997 treaty banning anti-personnel landmines, the Senate said Wednesday.

Signed by 68 senators, including 10 Republicans, the letter supports the Obama administration's ongoing review of US policy on landmines and is the first indication the Senate is in favor of ratifying the treaty, which the US refuses to sign.

Significantly, it represents one more than the 67 votes needed for ratification, however, the senators in their letter make no firm commitment on a vote.

"We are confident that through a thorough, deliberative review the administration can identify any obstacles to joining the Convention and develop a plan to overcome them as soon as possible," the letter said.

Days before the second conference reviewing the Ottawa Convention began in November in Colombia, the Obama administration said its position on the landmines treaty remained unchanged, but that it was reviewing US policy on the issue.

The review is scheduled to end by late September, according to Democratic Senator Patrick Leahy, who criticized the White House's refusal last year to join the treaty and sponsored the letter to Obama.

"Anti-personnel landmines, which are triggered by the victim, have no place in the arsenal of a modern military," Leahy said Tuesday in the Senate.

**Deal Fails—negotiations will take forever—more sanctions key to pressure—avoids nuclear war**

TOBIN 2 – 18 – 14 Senior Online Editor of Commentary magazine [Jonathan S. Tobin, The Long Iran Stall Begins Again, <http://www.commentarymagazine.com/2014/02/18/the-long-iran-stall-begins-again-nuclear-sanctions/>]

Today ought to be a day to celebrate for the Obama administration. Nuclear talks with Iran set to begin in Vienna will begin the next stage of a diplomatic process by which the president will redeem his oft-repeated promise about stopping the Islamist regime’s drive for nuclear weapons. For months since the signing of the interim nuclear agreement with Iran in November, the president and his cheering section in the press have lauded the prospects of these negotiations as the only thing standing in the way of a rush to war. They have spoken about the willingness of the Iranians to listen to reason since the election of the “moderate” Hassan Rouhani as president last summer.

They have also cited the seriousness of the president’s resolve to get results even as he has tempered some of the optimism by saying the chances of success are only 50 percent. Most importantly, while shooting down the chances of passing a new Iran sanctions bill that would have gone into effect only if the next round of talks had concluded in failure, they claimed the administration would not allow itself to be stalled by the Iranians and that the president would hold Tehran accountable to a tough timetable that would preclude any delaying tactics.

But the atmosphere pervading the opening of the new talks provides a stark contrast to what we’ve been hearing from Washington lately. It’s not just that the Iranians are pouring cold water on any optimism about the negotiations, with their Supreme Leader Grand Ayatollah Ali Khamenei saying they “will lead nowhere” in a speech yesterday or his representatives’ adamant refusal to even discuss the dismantling of any of their nuclear infrastructure. What is most distressing about the Iran talks is the blithe assumption on the part of the negotiators that they will drag on for as long as a year. That gives the lie to the president’s assurances that he wouldn’t let himself be suckered by the Iranians into allowing them to keep delaying while they continue to get closer to their nuclear goal. It also puts the administration’s adamant opposition to the proposed sanctions bill into a new and unflattering light. The reason to oppose the sanctions seems now to be not so much about protecting the diplomatic option as it does enabling the Iranians to stall the West for as long as they like.

It should be remembered that the deal Secretary of State John Kerry signed in Geneva on November 24 stipulated that the talks that would follow were to take place over a six-month period. While there was a clause that said the talks could be extended if necessary, Kerry and his boss President Obama stressed the six-month time frame in order to assure Americans and nervous Israelis the agreement couldn’t be used by Tehran to stall the West indefinitely. Yet even before the new talks began, we are now being assured by the administration’s faithful enablers at the New York Times that we should expect the negotiations to drag on until 2015 with little hope that they will end even then. With Iran’s economy showing signs of a revival in the wake of the West’s loosening of sanctions, there appears to be no reason to expect Tehran will ever give up its nuclear dream.

Thus, with this week’s first meeting to be only about the form of the talks that will follow, it’s now clear that what is happening is exactly what critics of the president’s attempt to engage with Iran always feared: a renewal of the same stalling tactics that has allowed Tehran to drag out this process over the last decade.

President Obama denounced the new sanctions bill that had the support of a bipartisan 59-member Senate coalition as both superfluous and dangerous since it could scare the Iranians away from the table. But what we now see is that the proposal’s worst feature in the eyes of the administration was that it took the Iran nuclear deal’s timetable seriously. If the new sanctions bill were signed into law it would strengthen President Obama’s hand in negotiations with the Iranians since it would convey the message that there would be serious consequences if they did not comply with Western demands to give up their nuclear ambition. But without the sanctions bill, the Iranians—and the administration—are free to draw out the talks as long as they like. The lack of a new sanctions option also allows both sides to ignore key questions about Iran’s ballistic missile technology and other pertinent questions about their behavior, such as support for terrorism.

Open-ended negotiations were exactly what the president promised he would not be drawn into, but that appears to be the situation that the United States finds itself in as the diplomats arrive in Vienna. For a decade, Iran has been able to engage in diplomatic tricks that have enabled it to stall the West indefinitely as they tried to run out the clock until their nuclear project was completed. The sanctions that were passed over Obama’s objections during his first term were supposed to bring them to the table and end this charade. But the glum outlook in Vienna makes it appear as if the West has thrown away that economic leverage.

Right now, faith in diplomacy with Iran seems to have more to do with a disinclination to pressure them than it does with any belief that the U.S. can achieve its objectives. While it may take a year or more for the administration to concede that the talks have failed, the only measure that might actually help them to succeed—the prospect of new sanctions that will shut down Iran’s oil sales—is now off the table. This is good news for the Iranians but very bad news for those in the West who hoped Obama meant what he said about averting the nuclear threat.

**Waivers solve the impact**

Adam Kredo, 1/21/14, White House Seeks to Bypass Congress on Iran Deal, freebeacon.com/white-house-seeks-to-bypass-congress-on-iran-deal/

The White House has been exploring ways to circumvent Congress and unilaterally lift sanctions on Iran once a final nuclear agreement is reached, according to sources with knowledge of White House conversations and congressional insiders familiar with its strategy.

The issue of sanctions relief has become one of the key sticking points in the Iran debate, with lawmakers pushing for increased economic penalties and the White House fighting to roll back regulations.

While many in Congress insist that only the legislative branch can legally repeal sanctions, senior White House officials have been examining strategies to skirt Congress, according to those familiar with internal conversations.

Sen. Mark Kirk (R., Ill.), who is leading the charge on new sanctions legislation, said that it is unacceptable for the White House to try to bypass Congress on such a critical global issue.

“The American people must get a say in any final nuclear agreement with Iran to ensure the mullahs never get the bomb,” Kirk told the Washington Free Beacon. “The administration cannot just ignore U.S. law and lift sanctions unilaterally.”

Congressional insiders say that the White House is worried Congress will exert oversight of the deal and demand tougher nuclear restrictions on Tehran in exchange for sanctions relief.

Top White House aides have been “talking about ways to do that [lift sanctions] without Congress and we have no idea yet what that means,” said one senior congressional aide who works on sanctions. “They’re looking for a way to lift them by fiat, overrule U.S. law, drive over the sanctions, and declare that they are lifted.”

Under the interim nuclear deal with Iran that began on Monday, Tehran will receive more than $4 billion in cash, according to the White House.

President Barack Obama could unilaterally unravel sanctions through several executive channels, according to former government officials and legal experts.

Executive orders grant the president significant leverage in the how sanctions are implemented, meaning that Obama could choose to stop enforcing many of the laws on the books, according to government insiders.

Those familiar with the ins and outs of sanctions enforcement say that the White House has long been lax with its enforcement of sanctions regulations already on the books.

“It’s no secret that the president, with executive power, can determine sanctions implementation, particularly with waivers and the decision not to sanction certain entities,” said Jonathan Schanzer, a former terrorism finance analyst at the Treasury Department, which is responsible for enforcing sanctions.

“The financial pressure has always been about closing loopholes and identifying new ones to close,” Schanzer added. “If you stop that process of constant gardening, you leave a backdoor open.”

Obama could also use executive waivers to “bypass restrictions imposed by the law,” according to a report by Patrick Clawson, director of research at the Washington Institute for Near East Policy (WINEP).

The president has a lot of leverage when it comes to sanctions and could effectively “turn a blind eye” to Iranian infractions.

“In the case of Iran, such an approach could allow Washington to reach a nuclear accord without Congress having to vote on rescinding, even temporarily or conditionally, certain sanctions,” Clawson wrote. “No matter how stiff and far-reaching sanctions may be as embodied in U.S. law, they would have less bite if the administration stopped enforcing them.”

One former senior government official said that President Obama’s legal team has likely been investigating the issue for quite some time.

“I’d be shocked if they weren’t putting the various sanctions laws under a microscope to see how they can waive them or work around them in order to deliver to Iran sanctions relief without having to worry about Congress standing in their way,” said Stephen Rademaker, who served as deputy legal adviser to former President George H.W. Bush’s National Security Council (NSC).

Executive branch lawyers are often tasked with finding ways to get around existing legislation, Rademaker said.

“I’m sure pretty early in the negotiating process they developed a roadmap” to ensure the president has the authority to promise Iran significant relief from sanctions, said Rademaker, who also served as chief council for the House Committee on International Relations. “I’m sure they’ve come up with an in depth analysis of what they can do relying exclusively on the president’s legal authority.”

The White House has been known to disregard portions of the sanctions laws that it disagrees with, according to Schanzer.

**Deal collapse doesn’t cause a strike**

Yousaf Butt, a nuclear physicist, is director of the Emerging Technologies Program at the Cultural Intelligence Institute, 1/17/14, Eight Ways You're Wrong About Iran's Nuclear Program, nationalinterest.org/print/commentary/eight-ways-youre-wrong-about-irans-nuclear-program-9723

Meme 1: “If the world powers fail to reach a deal with Tehran the alternative is bombing.”

An incarnation of this shopworn meme appears in [4]Matthew Kroenig's recent piece in Foreign Affairs [4]. He states “A truly comprehensive diplomatic settlement between Iran and the West is still the best possible outcome, but there is little reason to believe that one can be achieved. And that means the United States may still have to choose between bombing Iran and allowing it to acquire a nuclear bomb.” Er, no. That's a false choice. Iran is not acquiring a nuclear bomb—the [6]US Director of National Intelligence (DNI) has a “high level of confidence” [6] that no decision to weaponize has yet been taken in Tehran. This conclusion of the DNI is not based on an absence of evidence but on actual information [7] that whatever weaponization research Iran may have been doing up to about 2003 has been wrapped up a decade ago.

The P5+1 nations—the five permanent members of the Security Council: the US, UK, France, Russia and China, plus Germany—are not negotiating with Iran to stop it from making a nuclear bomb. They are negotiating with Iran on how to continue to keep its nuclear program peaceful. The discussion is about the methods used to verify that Iran continues its peaceful nuclear program. Even if the nuclear talks fall apart the IAEA inspectors would still continue to inspect Iranian nuclear facilities.

If we—or our allies—bomb Iran the IAEA inspectors would most certainly be expelled, Iran would likely leave the NPT, and Tehran would likely kick off a full-blown nuclear weapons development project. Iraq's nuclear weapons project also started in earnest after Israel bombed [8] Iraq's Osirak reactor in 1981.

To sum up: The negotiations with Iran are about the methods to use to continue to make sure Iran's nuclear program is peaceful. Not reaching a deal is not the end of the world. And if we do bomb Iran, it is likely to bring about the very thing the bombs were trying to prevent: a full-blown nuclear weapons program.

**Middle East war doesn’t escalate**

Maloney 7 (Suzanne, Senior Fellow – Saban Center for Middle East Policy, Steve Cook, Fellow – Council on Foreign Relations, and Ray Takeyh, Fellow – Council for Foreign Relations, “Why the Iraq War Won’t Engulf the Mideast”, International Herald Tribune, 6-28, http://www.brookings.edu/views/op-ed/maloney20070629.htm)

Long before the Bush administration began selling "the surge" in Iraq as a way to avert a general war in the Middle East, observers both inside and outside the government were growing concerned about the potential for armed conflict among the regional powers. Underlying this anxiety was a scenario in which Iraq's sectarian and ethnic violence spills over into neighboring countries, producing conflicts between the major Arab states and Iran as well as Turkey and the Kurdistan Regional Government. These wars then destabilize the entire region well beyond the current conflict zone, involving heavyweights like Egypt. This is scary stuff indeed, but with the exception of the conflict between Turkey and the Kurds, the scenario is far from an accurate reflection of the way Middle Eastern leaders view the situation in Iraq and calculate their interests there. It is abundantly clear that major outside powers like Saudi Arabia, Iran and Turkey are heavily involved in Iraq. These countries have so much at stake in the future of Iraq that it is natural they would seek to influence political developments in the country. Yet, the Saudis, Iranians, Jordanians, Syrians, and others are very unlikely to go to war either to protect their own sect or ethnic group or to prevent one country from gaining the upper hand in Iraq. The reasons are fairly straightforward. First, Middle Eastern leaders, like politicians everywhere, are primarily interested in one thing: self-preservation. Committing forces to Iraq is an inherently risky proposition, which, if the conflict went badly, could threaten domestic political stability. Moreover, most Arab armies are geared toward regime protection rather than projecting power and thus have little capability for sending troops to Iraq. Second, there is cause for concern about the so-called blowback scenario in which jihadis returning from Iraq destabilize their home countries, plunging the region into conflict. Middle Eastern leaders are preparing for this possibility. Unlike in the 1990s, when Arab fighters in the Afghan jihad against the Soviet Union returned to Algeria, Egypt and Saudi Arabia and became a source of instability, Arab security services are being vigilant about who is coming in and going from their countries. In the last month, the Saudi government has arrested approximately 200 people suspected of ties with militants. Riyadh is also building a 700 kilometer wall along part of its frontier with Iraq in order to keep militants out of the kingdom. Finally, there is no precedent for Arab leaders to commit forces to conflicts in which they are not directly involved. The Iraqis and the Saudis did send small contingents to fight the Israelis in 1948 and 1967, but they were either ineffective or never made it. In the 1970s and 1980s, Arab countries other than Syria, which had a compelling interest in establishing its hegemony over Lebanon, never committed forces either to protect the Lebanese from the Israelis or from other Lebanese. The civil war in Lebanon was regarded as someone else's fight. Indeed, this is the way many leaders view the current situation in Iraq. To Cairo, Amman and Riyadh, the situation in Iraq is worrisome, but in the end it is an Iraqi and American fight. As far as Iranian mullahs are concerned, they have long preferred to press their interests through proxies as opposed to direct engagement. At a time when Tehran has access and influence over powerful Shiite militias, a massive cross-border incursion is both unlikely and unnecessary. So Iraqis will remain locked in a sectarian and ethnic struggle that outside powers may abet, but will remain within the borders of Iraq. The Middle East is a region both prone and accustomed to civil wars. But given its experience with ambiguous conflicts, the region has also developed an intuitive ability to contain its civil strife and prevent local conflicts from enveloping the entire Middle East.

### AT: K

**Discussing the government in the context of arms control is valuable – discussions of institutional weakness are valuable – but it is states that are building and controlling arms – so the debate needs to start there.**

MULLER 00 Director of the Peace Research Institute – Frankfurt & Prof of IR at Goethe University [Harold Muller, Compliance Politics: A Critical Analysis of Multilateral Arms Control Treaty Enforcement, The Nonproliferation Review, Summer 2000]

Finally, it is unlikely that the course of events will change without a determined effort from within international civil society. Nongovernmental organizations have proven their potential in initiating and providing the necessary momentum behind the campaign to ban anti-personnel landmines. 52 The arms control and disarmament community within the United States has also exerted considerable influence over the years, serving as a watchdog, agenda-setter and, at times, mover of issues. 53 It will be necessary for the international arms control and disarmament community to agree on a few simple and communicable objectives and to campaign around them, with a strong effort in the United States in particular. The US part of this campaign is the most important one without reliable allies on the inside of superpower politics, activities from the outside will remain insufficient.

CONCLUSION

The present situation for effective and successful compliance policy is not good. It would have been tempting to engage in a nice academic debate about institutional reform, stating with the UN Security Council and going in detail through the weaknesses of each and every international organization charged with treaty administration, then discussing the weaknesses of the compliance mechanisms in the various international agreements, and so on. The approach chosen here was different The framework developed in the first part of this viewpoint related the structure and the actors to each other only their interdependent feedback processes can produce the conditions that promise successful compliance policy. The diagnosis based on this framework showed that today’s problems lie in the actors. The remedies therefore had to address the actor problem as the top priority.

This does not mean that institutional design is not a worthy venture; it certainly is. For the broad picture, however, we have to get the priorities right. And all findings about institutional weakness should not be construed as relieving the actors, especially the leading ones, of their basic duty to play by the rules and to integrate themselves into the multilateral frameworks that need to be saved, maintained, and improved if states are to enjoy the security benefits that multilateral arms control can provide.

**We have a defense of the way we view international relations---game-theory proves that liberal internationalism is effective**

Recchia and Doyle 11 Stefano, Assistant Professor in International Relations at the University of Cambridge, and Michael, Harold Brown Professor of International Affairs, Law and Political Science at Columbia University, “Liberalism in International Relations”, In: Bertrand Badie, Dirk Berg-Schlosser, and Leonardo Morlino, eds., International Encyclopedia of Political Science (Sage, 2011), pp. 1434-1439

Relying on new insights from game theory, scholars during the 1980s and 1990s emphasized that so-called international regimes, consisting of agreed-on international norms, rules, and decision-making procedures, can help states effectively coordinate their policies and collaborate in the production of international public goods, such ¶ as free trade, arms control, and environmental protection. Especially, if embedded in formal multilateral institutions, such as the World Trade ¶ Organization (WTO) or North American Free ¶ Trade Agreement (NAFT A), regimes crucially ¶ improve the availability of information among ¶ states in a given issue area, thereby promoting ¶ reciprocity and enhancing the reputational costs ¶ of noncompliance. As noted by Robert Keohane, ¶ institutionalized multilateralism also reduces strategic competition over relative gains and thus ¶ further advances international cooperation. ¶ Most international regime theorists accepted ¶ Kenneth Waltz's (1979) neorealist assurription of ¶ states as black boxes-that is, unitary and rational ¶ actors with given interests. Little or no attention ¶ was paid to the impact on international cooperation of domestic political processes and dynamics. ¶ Likewise, regime scholarship largely disregarded ¶ the arguably crucial question of whether prolonged interaction in an institutionalized international setting can fundamentally change states' interests or preferences over outcomes (as opposed ¶ to preferences over strategies), thus engendering positive feedback loops of increased overall cooperation. For these reasons, international regime ¶ theory is not, properly speaking, liberal, and the ¶ term neoliberal institutionalism frequently used to ¶ identify it is somewhat misleading. ¶ It is only over the past decade or so that liberal ¶ international relations theorists have begun to systematically study the relationship between domestic politics and institutionalized international cooperation or global governance. This new scholarship ¶ seeks to explain in particular the close interna tional ¶ cooperation among liberal democracies as well as ¶ higher-than-average levels of delegation b)' democracies to complex multilateral bodies, such as the ¶ \ ¶ Liberalism in International Relations 1437 ¶ European Union (EU), North Atlantic Treaty ¶ Organization (NATO), NAFTA, and the WTO ¶ (see, e.g., John Ikenberry, 2001; Helen Milner & ¶ Andrew Moravcsik, 2009). The reasons that make liberal democracies particularly enthusiastic about international cooperation are manifold: First, transnational actors such as nongovernmental ¶ organizations and private corporations thrive in liberal democracies, and they frequently advocate increased international cooperation; second, elected democratic officials rely on delegation to multilateral bodies such as the WTO or the EU to commit to a stable policy line and to internationally lock in fragile domestic policies and constitutional arrangements; and finally, powerful liberal democracies, such as the United States and its ¶ allies, voluntarily bind themselves into complex global governance arrangements to demonstrate strategic restraint and create incentives for other states to cooperate, thereby reducing the costs for ¶ maintaining international order. ¶ Recent scholarship, such as that of Charles ¶ Boehmer and colleagues, has also confirmed the ¶ classical liberal intuition that formal international ¶ institutions, such as the United Nations (UN) or ¶ NATO, independently contribute to peace, especially when they are endowed with sophisticated ¶ administrative structures and information-gathering ¶ capacities. In short, research on global governance ¶ and especially on the relationship between democracy and international cooperation is thriving, and ¶ it usefully complements liberal scholarship on the ¶ democratic peace.

**Shocks to the system are the ONLY propensity for conflict—liberal norms have eradicated warfare and structural violence—every field study proves**

JOHN HORGAN 9 is Director of the Center for Science at Stevens Institute of Technology, former senior writer at Scientific American, B.A. from Columbia and an M.S. from Columbia “The End of the Age of War,” Dec 7, http://www.newsweek.com/id/225616/page/1

The economic crisis was supposed to increase violence around the world. The truth is that we are now living in one of the most peaceful periods since war first arose 10 or 12 millennia ago. The relative calm of our era, say scientists who study warfare in history and even prehistory, belies the popular, pessimistic notion that war is so deeply rooted in our nature that we can never abolish it. In fact, war seems to be a largely cultural phenomenon, which culture is now helping us eradicate. Some scholars now even cautiously speculate that the era of traditional war—fought by two uniformed, state-sponsored armies—might be drawing to a close. "War could be on the verge of ceasing to exist as a substantial phenomenon," says John Mueller, a political scientist at Ohio State University.¶ That might sound crazy, but consider: if war is defined as a conflict between two or more nations resulting in at least 1,000 deaths in a year, there have been no wars since the U.S. invasion of Iraq in 2003 and no wars between major industrialized powers since World War II. Civil wars have also declined from their peak in the early 1990s, when fighting tore apart Rwanda, the Balkans, and other regions. Most armed conflicts now consist of low-level guerrilla campaigns, insurgencies, and terrorism—what Mueller calls the "remnants of war."¶ These facts would provide little comfort if war's remnants were nonetheless killing millions of people—but they're not. Recent studies reveal a clear downward trend. In 2008, 25,600 combatants and civilians were killed as a direct result of armed conflicts, according to the University of Uppsala Conflict Data Program in Sweden. Two thirds of these deaths took place in just three trouble spots: Sri Lanka (8,400), Afghanistan (4,600), and Iraq (4,000).¶ Uppsala's figures exclude deaths from "one-sided conflict," in which combatants deliberately kill unarmed civilians, and "indirect" deaths from war-related disease and famine, but even when these casualties are included, annual war-related deaths from 2004 to 2007 are still low by historical standards. Acts of terrorism, like the 9/11 attacks or the 2004 bombing of Spanish trains, account for less than 1 percent of fatalities. In contrast, car accidents kill more than 1 million people a year.¶ The contrast between our century and the previous one is striking. In the second half of the 20th century, war killed as many as 40 million people, both directly and indirectly, or 800,000 people a year, according to Milton Leitenberg of the University of Maryland. He estimates that 190 million people, or 3.8 million a year, died as a result of wars and state--sponsored genocides during the cataclysmic first half of the century. Considered as a percentage of population, the body count of the 20th century is comparable to that of blood-soaked earlier cultures, such as the Aztecs, the Romans, and the Greeks.¶ By far the most warlike societies are those that preceded civilization. War killed as many as 25 percent of all pre-state people, a rate 10 times higher than that of the 20th century, estimates anthropologist Lawrence Keeley of the University of Illinois. Our ancestors were not always so bellicose, however: there is virtually no clear-cut evidence of lethal group aggression by humans prior to 12,000 years ago. Then, "warfare appeared in the evolutionary trajectory of an increasing number of societies around the world," says anthropologist Jonathan Haas of Chicago's Field Museum of Natural History. He attributes the emergence of warfare to several factors: growing population density, environmental stresses that diminished food sources, and the separation of people into culturally distinct groups. "It is only after the cultural foundations have been laid for distinguishing 'us' from 'them,' " he says, "that raiding, killing, and burning appear as a complex response to the external stress of environmental problems."¶ Early civilizations, such as those founded in Mesopotamia and Egypt 6,000 years ago, were extremely warlike. They assembled large armies and began inventing new techniques and technologies for killing, from horse-drawn chariots and catapults to bombs. But nation-states also developed laws and institutions for resolving disputes nonviolently, at least within their borders. These cultural innovations helped reduce the endless, tit-for-tat feuding that plagued pre-state societies.¶ A host of other cultural factors may explain the more recent drop-off in international war and other forms of social violence. One is a surge in democratic rather than totalitarian governance. Over the past two centuries democracies such as the U.S. have rarely if ever fought each other. Democracy is also associated with low levels of violence within nations. Only 20 democratic nations existed at the end of World War II; the number has since more than quadrupled. Yale historian Bruce Russett contends that international institutions such as the United Nations and the European Union also contribute to this "democratic peace" phenomenon by fostering economic interdependence. Advances in civil rights for women may also be making us more peaceful. As women's education and economic opportunities rise, birthrates fall, decreasing demands on governmental and medical services and depletion of natural resources, which can otherwise lead to social unrest.¶ Better public health is another contributing factor. Over the past century, average life spans have almost doubled, which could make us less willing to risk our lives by engaging in war and other forms of violence, proposes Harvard psychologist Steven Pinker. At the same time, he points out, globalization and communications have made us increasingly interdependent on, and empathetic toward, others outside of our immediate "tribes."¶ Of course, the world remains a dangerous place, vulnerable to disruptive, unpredictable events like terrorist attacks. Other looming threats to peace include climate change, which could produce droughts and endanger our food supplies; overpopulation; and the spread of violent religious extremism, as embodied by Al Qaeda. A global financial meltdown or ecological catastrophe could plunge us back into the kind of violent, Hobbesian chaos that plagued many pre--state societies thousands of years ago. "War is not intrinsic to human nature, but neither is peace," warns the political scientist Nils Petter Gleditsch of the International Peace Research Institute in Oslo.¶ So far the trends are positive. If they continue, who knows? World peace—the dream of countless visionaries and -beauty--pageant -contestants—or something like it may finally come to pass.

**A shift to multilateralist institutions that integrate rising powers instead of frustrating them independently solves extinction.**

**Feffer, 09** – Co-Director of FPIF, John, “A Multipolar Moment?”, Foreign Policy in Focus, 2-17, <http://www.fpif.org/articles/a_multipolar_moment>

But times have changed, argues FPIF contributor Hannes Artens. "These aren't the golden 1990s, when U.S. power was at its zenith. In this first decade of the 21st century, the capitalist West is facing defeat in Afghanistan and is on the verge of 'the worst recession in a hundred years,' as British minister Ed Balls put it in perhaps only slight exaggeration," he writes in Multilateralism in Munich. "This combination will force the Obama administration to stop cherry-picking issues on which it wants to cooperate and forging ahead on those issues it believes it can still handle alone. Necessity will dictate a more pragmatic multilateralism, in which all sides humbly accept what is realistically possible." Are we thus witnessing the final end of the unipolar moment? China is coming up fast. The European Union's expansion has been accompanied by relatively few growing pains. Several powerful countries in the South (particularly India, Brazil, and South Africa) are quietly acquiring more geopolitical heft. Global problems like climate change and financial collapse require global solutions, so we either evolve multilateral responses or we do a dinosaur dive into extinction. Over here, meanwhile, the Pentagon is still maintaining the world's largest military force — but we have failed to defeat al-Qaeda, we are quagmired in Afghanistan, and all of our nuclear weapons have done little to prevent North Korea from entering the nuclear club. The global recession is hammering the U.S. economy, and we might finally see the end of the dollar's reign as global currency. With the bank bailout, the stimulus package, the bill for two wars plus the Pentagon's already gargantuan budget, the red ink is mounting. Debt has been the gravedigger of many an empire. I can hear the adding machine totting up the numbers. Or is that the sound of dirt hitting a coffin lid?

**Reformist limitations are key -- the alt neglects reality**

Roger **NORMAND** Policy Director Center for Economic and Social Rights **AND** Chris **JOCHNICK** Legal Director Center for Economic and Social Rights **’94** “The Legitimation of Violence: A Critical Analysis of the Gulf War” 35 Harv. Int'l L.J. 387 L/N

We anticipate at least two major objections to this call for humanitarian reform. First, some may question our focus on strengthening the laws of war rather than abolishing war altogether. From this perspective, the organic link between "laws of war" and the traditional concept of competing, autonomous states leaves little space to empower groups and individuals at the expense of sovereigns. While some marginal benefits may accrue from tinkering with the laws of war, they are likely to pale in comparison to the overall costs of war itself. Notwithstanding the intuitive appeal of this critique, it seems clear that war will be a feature of international relations for the foreseeable future. Under these circumstances, even **minor limitations** on belligerent conduct and **marginal humanitarian gains are worth pursuing**. Such limitations need not be viewed as subverting efforts to abolish war, but rather as **stages** toward the realization of that goal. By focusing only on tomorrow's possibilities, the all-or-nothing approach neglects the struggles of today. The choice between challenging a nation's rights in war and challenging war itself represents different but **complementary methods** of achieving a **shared objective**.

**Reframing isn’t sufficient. Security framing is a pre-requisite for changing authority.**

David **COLE** Law @ Georgetown **’12** “Confronting the Wizard of Oz: National Security, Expertise, and Secrecy” CONNECTICUT LAW REVIEW 44 (5) p. 1629-1633

Rana is right to focus our attention on the assumptions that frame modern Americans' conceptions about national security, but his assessment raises three initial questions. First, it seems far from clear that there ever was a "golden" era in which national security decisions were made by the common man, or "the people themselves," as Larry Kramer might put it.8 Rana argues that neither Hobbes nor Locke would support a worldview in which certain individuals are vested with superior access to the truth, and that faith in the superior abilities of so-called "experts" is a phenomenon of the New Deal era. 9 While an increased faith in scientific solutions to social problems may be a contributing factor in our current overreliance on experts,' 0 I doubt that national security matters were ever truly a matter of widespread democratic deliberation. Rana notes that in the early days of the republic, every able-bodied man had to serve in the militia, whereas today only a small (and largely disadvantaged) portion of society serves in the military." But serving in the militia and making decisions about national security are two different matters. The early days of the Republic were at least as dominated by "elites" as today. Rana points to no evidence that decisions about foreign affairs were any more democratic then than now. And, of course, the nation as a whole was far less democratic, as the majority of its inhabitants could not vote at all. 12 Rather than moving away from a golden age of democratic decision-making, it seems more likely that we have simply replaced one group of elites (the aristocracy) with another (the experts). Second, to the extent that there has been an epistemological shift with respect to national security, it seems likely that it is at least in some measure a response to objective conditions, not just an ideological development. If so, it's not clear that we can solve the problem merely by "thinking differently" about national security. The world has, in fact, become more interconnected and dangerous than it was when the Constitution was drafted. At our founding, the oceans were a significant buffer against attacks, weapons were primitive, and travel over long distances was extremely arduous and costly. The attacks of September 11, 2001, or anything like them, would have been inconceivable in the eighteenth or nineteenth centuries. Small groups of non-state actors can now inflict the kinds of attacks that once were the exclusive province of states. But because such actors do not have the governance responsibilities that states have, they are less susceptible to deterrence. The Internet makes information about dangerous weapons and civil vulnerabilities far more readily available, airplane travel dramatically increases the potential range of a hostile actor, and it is not impossible that terrorists could obtain and use nuclear, biological, or chemical weapons. 13 The knowledge necessary to monitor nuclear weapons, respond to cyber warfare, develop technological defenses to technological threats, and gather intelligence is increasingly specialized. The problem is not just how we think about security threats; it is also at least in part objectively based. Third, deference to expertise is not always an error; sometimes it is a rational response to complexity. Expertise is generally developed by devoting substantial time and attention to a particular set of problems. We cannot possibly be experts in everything that concerns us. So I defer to my son on the remote control, to my wife on directions (and so much else), to the plumber on my leaky faucet, to the electrician when the wiring starts to fail, to my doctor on my back problems, and to my mutual fund manager on investments. I could develop more expertise in some of these areas, but that would mean less time teaching, raising a family, writing, swimming, and listening to music. The same is true, in greater or lesser degrees, for all of us. And it is true at the level of the national community, not only for national security, but for all sorts of matters. We defer to the Environmental Protection Agency on environmental matters, to the Federal Reserve Board on monetary policy, to the Department of Agriculture on how best to support farming, and to the Federal Aviation Administration and the Transportation Security Administration on how best to make air travel safe. Specialization is not something unique to national security. It is a rational response to an increasingly complex world in which we cannot possibly spend the time necessary to gain mastery over all that affects our daily lives. If our increasing deference to experts on national security issues is in part the result of objective circumstances, in part a rational response to complexity, and not necessarily less "elitist" than earlier times, then it is not enough to "think differently" about the issue. We may indeed need to question the extent to which we rely on experts, but surely there is a role for expertise when it comes to assessing threats to critical infrastructure, devising ways to counter those threats, and deploying technology to secure us from technology's threats. As challenging as it may be to adjust our epistemological framework, it seems likely that even if we were able to sheer away all the unjustified deference to "expertise," we would still need to rely in substantial measure on experts. The issue, in other words, is not whether to rely on experts, but how to do so in a way that nonetheless retains some measure of self-government. The need for specialists need not preclude democratic decision-making. Consider, for example, the model of adjudication. Trials involving products liability, antitrust, patents, and a wide range of other issues typically rely heavily on experts.' 4 But critically, the decision is not left to the experts. The decision rests with the jury or judge, neither of whom purports to be an expert. Experts testify, but do so in a way that allows for adversarial testing and requires them to explain their conclusions to laypersons, who render judgment informed, but not determined, by the expert testimony. Similarly, Congress routinely acts on matters over which its members are not experts. Congress enacts laws governing a wide range of very complex issues, yet expertise is not a qualification for office. Members of Congress, like many political appointees in the executive branch, listen to and consider the views of experts to inform their decisions. Congress delegates initial consideration of most problems to committees, and by serving on those committees and devoting time and attention to the problems within their ambit, members develop a certain amount of expertise themselves. They may hire staff who have still greater expertise, and they hold hearings in which they invite testimony from still other experts. But at the end of the day, the decisions about what laws should be passed are made by the Congress as a whole, not by the experts. A similar process operates in the executive branch. The President and Vice-President generally need not be experts in any particular field, and many of the cabinet members they appoint are not necessarily experts either. They are managers and policy makers. They spend much of their day being briefed by people with more specialized expertise than they have. But at the end of the day, the important decisions are made by politically accountable actors. Thus, deference to experts need not preclude independent or democratically accountable decision-making. The larger problem may be one that Rana notes but does not sufficiently emphasize-an inordinate reliance on classified information and covert operations. 5 Secrecy is in many ways the ultimate enemy of democracy in the national security realm. 16 As Judge Damon Keith has written, "democracy dies behind closed doors.' ' 7 The experts in the intelligence community have the power to hide their decisions from external review and checks by classifying the information they consider or the actions they take.18 Even if they do so in good faith, the inevitable result is that their actions are increasingly insulated from scrutiny by others and immune from democratic checks. Virtually everyone who has had access to classified information concedes that the system leads to massive over-classification. 19 Our overreliance on secrecy may well be more central to the problem of inordinate deference than assumptions about the nature of knowledge regarding security. And in any event, the problems are mutually reinforcing. The inaccessibility of the information the experts rely upon compels us to defer to them because we lack sufficient grounds to question them. And that, in turn, may well make the experts more protective of their information and more likely to classify their actions, decisions, and considerations.

**Their role of the ballot claims construct an omnipotent theorist—this construct is more dangerous than the provisional and limited claims of security.**

Ole **WAEVER** Senior Research Fellow @ Copenhagen Peace Research Inst. **‘2K** in *International Relations Theory and the Politics of European Integration* eds. Kelstrup and Williams p. 282-283

This chapter has largely taken its questions train the traditional agenda and its answers from a much less traditional quarters. The establishment is likely to have some problems accepting the logic a1 the reply (even if it might like where it ends) - and the post-structuralist will hesitate before granting the terms for the question, the phrasing of the problematique. Who says we need security systems? Isn't this to accept 'the anarchy problematique'? Does it presuppose a need for arrangements to curtail sonw kind of natural or inherent violence and anarchy? Yes and no. Yes, world politics is indeed complex unstable - and could easily be called anarchic. Many unpleasant possibilities can be imagined, and some are sufficiently likely to justify a term like pessimism. Still, this is exactly not the anarchy problematique in its traditional IR sense, because as Richard Ashley has pointed out, the anarchy problematique of 'cooperation under anarchy' and other rational choice themes 'assumes to be solved, the burner part of the problem it purports to state' (1988: 229). The lack of central rule can easily be admitted, but the dominant IR agenda is produced by moving immediately from this - the real anarchy - to a specific articulation of the question in the form of sovereign states rationally calculating their mutual relations. Resisting the 'heroic practice' of the sovereignty/anarchy blackmail, we do not get an ordered, peaceful world order - quite the contrary, we are left with that excessive amount of openness and indecision which is mostly held to be intolerable and therefore absorbed into the anarchy problematique. 'The absence of a central agency of rule would mean only that, an absence of a central agency of rule' jibed.. 2391. Like classical realism, this anarchy without the anarchy problematique points to a world of little stability, few guarantees and much violence of many sans. Mainstream canstructivists only avoid this confusing world by de facto riding on much of the disciplining and promises of the anarchy problematique: state-centredness (allegedly only as an academic assumption), domestic order and an agenda of inter-state co-operation. If the existing order is - as the classical realist secretly suspect Ashky 1999, 1996) and the post-structuralists claim - built on ultimately arbitrary instalments of self-evidence, meaning and problems, one should be prepared for change to mean nor necessarily gentle improvement but possibly (or most likely) quite dramatic changes which no-one can guarantee will be for the better. This Ashleyan image of realists as almost knowingly fighting an abyss of indeterminancy, creating limitations but not out of rigidity or narrow- mindedness but in order to create order, contrasts strongly with the dominant self-image of most critical international relationists (most constructivists and some post-structuralists). They usually picture the problem of realism and rationalism as one of superstition or religion, of the main- stream dogmatically holding on to positivist limitations. This naturally endows the critical theorist with a much nicer position: the one of criticizing, transgressing and thinking the new. Paradoxically, this is the arch- modernist position, the **Enlightenment rhetoric in pure form**. In contrast, we could admit that realists and other rationalists are actually Enlightenment- inspired thinkers - often progressives - who want to improve and transgress but of course have problematized in the dual sense of questioning and of imposing a certain set of limitations by defining the relevant problem. When realists and others resist the openings and modifications suggested by critical theorists, it is often **not** because of pure **epistemological conservativism**, but on the contrary a political practice based on their sense that their order is arbitrary and therefore in need of protection, that e.g. the channelling of violence into a state-based order has been an **enormous historical gain** that is too lightly given up if the implied ontological and epistemological decisions are reversed Walker 1993; Williams 1998)? Then, the decision to go ahead, to question and thereby re-open the historical resolution of difficult political problems, is not taken lightly with a sense of progressing towards a new (liberal-constructivist) dawn, but rather with a diffident sense of making a difficult political choice with unknown consequences

**There are no prior questions to problem oriented IR- empirical validity is a sufficient justification for action. Emphasis on metaphysical hurdles destroys any chance of effectively describing the world and guiding action**

David Owen, Reader of Political Theory at the Univ. of Southampton, Millennium Vol 31 No 3 2002 p. 655-7

Commenting on the ‘philosophical turn’ in IR, Wæver remarks that ‘[a] frenzy for words like “epistemology” and “ontology” often signals this philosophical turn’, although he goes on to comment that these terms are often used loosely.4 However, loosely deployed or not, it is clear that debates concerning ontology and epistemology play a central role in the contemporary IR theory wars. In one respect, this is unsurprising since it is a characteristic feature of the social sciences that periods of disciplinary disorientation involve recourse to reflection on the philosophical commitments of different theoretical approaches, and there is no doubt that such reflection can play a valuable role in making explicit the commitments that characterise (and help individuate) diverse theoretical positions. Yet, such a philosophical turn is not without its dangers and I will briefly mention three before turning to consider a confusion that has, I will suggest, helped to promote the IR theory wars by motivating this philosophical turn. The first danger with the philosophical turn is that it has an inbuilt tendency to prioritise issues of ontology and epistemology over explanatory and/or interpretive power as if the latter two were merely a simple function of the former. But while the explanatory and/or interpretive power of a theoretical account is not wholly independent of its ontological and/or epistemological commitments (otherwise criticism of these features would not be a criticism that had any value), it is by no means clear that it is, in contrast, wholly dependent on these philosophical commitments. Thus, for example, one need not be sympathetic to rational choice theory to recognise that it can provide powerful accounts of certain kinds of problems, such as the tragedy of the commons in which dilemmas of collective action are foregrounded. It may, of course, be the case that the advocates of rational choice theory cannot give a good account of why this type of theory is powerful in accounting for this class of problems (i.e., how it is that the relevant actors come to exhibit features in these circumstances that approximate the assumptions of rational choice theory) and, if this is the case, it is a philosophical weakness—but this does not undermine the point that, for a certain class of problems, rational choice theory may provide the best account available to us. In other words, while the critical judgement of theoretical accounts in terms of their ontological and/or epistemological sophistication is one kind of critical judgement, it is not the only or even necessarily the most important kind. The second danger run by the philosophical turn is that because prioritisation of ontology and epistemology promotes theory-construction from philosophical first principles, it cultivates a theory-driven rather than problem-driven approach to IR. Paraphrasing Ian Shapiro, the point can be put like this: since it is the case that there is always a plurality of possible true descriptions of a given action, event or phenomenon, the challenge is to decide which is the most apt in terms of getting a perspicuous grip on the action, event or phenomenon in question given the purposes of the inquiry; yet, from this standpoint, ‘theory-driven work is part of a reductionist program’ in that it ‘dictates always opting for the description that calls for the explanation that flows from the preferred model or theory’.5 The justification offered for this strategy rests on the mistaken belief that it is necessary for social science because general explanations are required to characterise the classes of phenomena studied in similar terms. However, as Shapiro points out, this is to misunderstand the enterprise of science since ‘whether there are general explanations for classes of phenomena is a question for social-scientific inquiry, not to be prejudged before conducting that inquiry’.6 Moreover, this strategy easily slips into the promotion of the pursuit of generality over that of empirical validity. The third danger is that the preceding two combine to encourage the formation of a particular image of disciplinary debate in IR—what might be called (only slightly tongue in cheek) ‘the Highlander view’—namely, an image of warring theoretical approaches with each, despite occasional temporary tactical alliances, dedicated to the strategic achievement of sovereignty over the disciplinary field. It encourages this view because the turn to, and prioritisation of, ontology and epistemology stimulates the idea that there can only be one theoretical approach which gets things right, namely, the theoretical approach that gets its ontology and epistemology right. This image feeds back into IR exacerbating the first and second dangers, and so a potentially vicious circle arises.

**Preventing death is the first ethical priority – it’s the only impact you can’t recover from.**

Bauman 95 Zygmunt Bauman, University of Leeds Professor Emeritus of Sociology, 1995, Life In Fragments: Essays In Postmodern Morality, p. 66-71

The being‑for is like living towards‑the‑future: a being filled with anticipation, a being aware of the abyss between future foretold and future that will eventually be; it is this gap which, like a magnet, draws the self towards the Other,as it draws life towards the future, making life into an activity of overcoming, transcending, leaving behind. The self stretches towards the Other, as life stretches towards the future; neither can grasp what it stretches toward, but it is in this hopeful and desperate, never conclusive and never abandoned stretching‑toward that the self is ever anew created and life ever anew lived. In the words of M. M. Bakhtin, it is only in this not‑yet accomplished world of anticipation and trial, leaning toward stubbornly an‑other Other, that life can be lived ‑ not in the world of the `events that occurred'; in the latter world, `it is impossible to live, to act responsibly; in it, I am not needed, in principle I am not there at all." Art, the Other, the future: what unites them, what makes them into three words vainly trying to grasp the same mystery, is the modality of possibility. A curious modality, at home neither in ontology nor epistemology; itself, like that which it tries to catch in its net, `always outside', forever `otherwise than being'. The possibility we are talking about here is not the all‑too‑familiar unsure‑of‑itself, and through that uncertainty flawed, inferior and incomplete being, disdainfully dismissed by triumphant existence as `mere possibility', `just a possibility'; possibility is instead `plus que la reahte' ‑ both the origin and the foundation of being. The hope, says Blanchot, proclaims the possibility of that which evades the possible; `in its limit, this is the hope of the bond recaptured where it is now lost."' The hope is always the hope of *being fu filled,* but what keeps the hope alive and so keeps the being open and on the move is precisely its *unfu filment.* One may say that the paradox *of hope* (and the paradox of possibility founded in hope) is that it may pursue its destination solely through betraying its nature; the most exuberant of energies expends itself in the urge towards rest. Possibility uses up its openness in search of closure. Its image of the better being is its own impoverishment . . . The togetherness of the being‑for is cut out of the same block; it shares in the paradoxical lot of all possibility. It lasts as long as it is unfulfilled, yet it uses itself up in never ending effort of fulfilment, of recapturing the bond, making it tight and immune to all future temptations. In an important, perhaps decisive sense, it is selfdestructive and self‑defeating: its triumph is its death. The Other, like restless and unpredictable art, like the future itself, is a *mystery.* And being‑for‑the‑Other, going towards the Other through the twisted and rocky gorge of affection, brings that mystery into view ‑ makes it into a challenge. That mystery is what has triggered the sentiment in the first place ‑ but cracking that mystery is what the resulting movement is about. The mystery must be unpacked so that the being‑for may focus on the Other: one needs to know what to focus on. (The `demand' is *unspoken,* the responsibility undertaken is *unconditional;* it is up to him or her who follows the demand and takes up the responsibility to decide what the following of that demand and carrying out of that responsibility means in practical terms.) Mystery ‑ noted Max Frisch ‑ (and the Other is a mystery), is an exciting puzzle, but one tends to get tired of that excitement. `And so one creates for oneself an image. This is a loveless act, the betrayal." Creating an image of the Other leads to the substitution of the image for the Other; the Other is now fixed ‑ soothingly and comfortingly. There is nothing to be excited about anymore. I know what the Other needs, I know where my responsibility starts and ends. Whatever the Other may now do will be taken down and used against him. What used to be received as an exciting surprise now looks more like perversion; what used to be adored as exhilarating creativity now feels like wicked levity. Thanatos has taken over from Eros, and the excitement of the ungraspable turned into the dullness and tedium of the grasped. But, as Gyorgy Lukacs observed, `everything one person may know about another is only expectation, only potentiality, only wish or fear, acquiring reality only as a result of what happens later, and this reality, too, dissolves straightaway into potentialities'. Only death, with its finality and irreversibility, puts an end to the musical‑chairs game of the real and the potential ‑ it once and for all closes the embrace of togetherness which was before invitingly open and tempted the lonely self." `Creating an image' is the dress rehearsal of that death. But creating an image is the inner urge, the constant temptation, the *must* of all affection . . . It is the loneliness of being abandoned to an unresolvable ambivalence and an unanchored and formless sentiment which sets in motion the togetherness of being‑for. But what loneliness seeks in togetherness is an end to its present condition ‑ an end to itself. Without knowing ‑ without being capable of knowing ‑ that the hope to replace the vexing loneliness with togetherness is founded solely on its own unfulfilment, and that once loneliness is no more, the togetherness ( the being‑for togetherness) must also collapse, as it cannot survive its own completion. What the loneliness seeks in togetherness (suicidally for its own cravings) is the foreclosing and pre‑empting of the future, cancelling the future before it comes, robbing it of mystery but also of the possibility with which it is pregnant. Unknowingly yet necessarily, it seeks it all to its own detriment, since the success (if there is a success) may only bring it back to where it started and to the condition which prompted it to start on the journey in the first place. The togetherness of being‑for is always in the future, and nowhere else. It is no more once the self proclaims: `I have arrived', `I have done it', `I fulfilled my duty.' The being‑for starts from the realization of the bottomlessness of the task, and ends with the declaration that the infinity has been exhausted. This is the tragedy of being‑for ‑ the reason why it cannot but be death‑bound while simultaneously remaining an undying attraction. In this tragedy, there are many happy moments, but no happy end. Death is always the foreclosure of possibilities, and it comes eventually in its own time, even if not brought forward by the impatience of love. The catch is to direct the affection to staving off the end, and to do this against the affection's nature. What follows is that, if moral relationship is grounded in the being-for togetherness (as it is), then it can exist as a project, and guide the self's conduct only as long as its nature of a project (a not yet-completed project) is not denied. Morality, like the future itself, is forever not‑yet. (And this is why the ethical code, any ethical code, the more so the more perfect it is by its own standards, supports morality the way the rope supports the hanged man.) It is because of our loneliness that we crave togetherness. It is because of our loneliness that we open up to the Other and allow the Other to open up to us. It is because of our loneliness (which is only belied, not overcome, by the hubbub of the being‑with) that we turn into moral selves. And it is only through allowing the togetherness its possibilities which only the future can disclose that we stand a chance of acting morally, and sometimes even of being good, in the present.

**No root cause of war so changing existing norms alone fails– counter-cultural pressures require political agency that respects the power of dominant systems.**

Jack **SNYDER** IR @ Columbia **’12** in *Power and Progress* p. 88-92

The end of the Cold War has given rise to hopes among many international relations scholars and public activists that a dramatic transformation in world politics is now unfolding. They contend that changes in norms, ideas, and culture have the power to tame the historically war-prone nature of international anarchy. ' This analysis and the prescriptions that follow from it exaggerate the autonomy of ideas and culture in shaping behavior in anarchy. A rich body of research on war by anthropologists suggests that ideas and culture are best understood not as autonomous but as embedded in complex social systems shaped by the interaction of material circumstances, institutional arrangements, and strategic choices, as well as by ideas and culture. Cultural prescriptions that ignore these multifaceted interactions will provide a poor road map to guide strategies of global change. Those who foresee substantial opportunities to transform the war-prone international system into a realm governed by benign norms contend that "anarchy is what states make of it."2 In their view, culture, defined as shared knowledge or symbols that create meaning within a social group, determines whether behavior in the absence of a common governing authority is bloody or benign. If more benign ideas and identities are effectively spread across the globe through cultural change and normative persuasion, then "ought" can be transformed into "is". Support for warlike dictators can be undermined, perpetrators of war crimes and atrocities can be held accountable, benign multicultural identities can be fostered, and international and civil wars w ill wane3 These academic concepts have a potent counterpart in the international human rights approach of activist organizations 4 In contrast, skeptics about such transformations argue that anarchy, whether among states coexisting in a self- help system or among contending groups inside collapsed states , gives rise to an inescapable logic of insecurity and competition that culture cannot trump5 These skeptics fear that a transformative attempt to supersede self-help behavior amounts to reckless overreaching that will create backlashes and quagmires. Ironically, in this view, the idealist vanguard of the new world order will need to rely increasingly on old-fashioned military and economic coercion in a futile effort to change world culture for the better.6 This is a debate of compelling intellectual and practical import. It lays bare the most fundamental assumptions about the nature of world politics that underpin real policy choices about the deployment of the vast military, economic, and moral resources of the United States and other wealthy democraci es. However, some of the leading voices in this debate, both in academic and broader public settings, overlook the decisive interplay between situational constraints and the creation of culture. Prophets of transformation sometimes assert that politics in anarchy and society is driven by " ideas almost all the way down." They dismiss as negligible what Alexander Wendt ca lls "rump" material constraints rooted in biology, the physical environment, or other circumstances unalterable through changes in symbolism.7 For them, "agency" by political actors committed to social change consists primarily in working to alter prevailing principled ideas, such as promoting the norm of universal jurisdiction in the case of crimes against humanity. In contrast, working for improved outcomes within existing constraints of material power, for example, by bargaining with still powerful human rights abusers, does not count for them as true "agency"; rather it is mere myopic "problem solving" within constraints8 Conversely, when prophets of continuity discuss culture at all, they treat it as a largely unchangeable force that may have some effect in constituting the units competing for security but that has at most a secondary effect on strategic interactions between those units, which are driven mainly by the logic of the anarchical situation9 This is an unnecessarily truncated menu of possibilities for imagining the relationship between anarchy and culture. Ironically, in light of the ambitiously activist agenda of the proponents of cultural approaches to international relations, their one-dimensional approach limits agents to a peculiarly circumscribed set of tools for promoting political change. A more promising approach would integrate the material, institutional, and cultural aspects of social change, drawing on the insights of theories of complex systems. Robert Jervis reminds us that the elements of complex systems, such as international anarchy, are highly interconnected and consequently the behavior of the system as a whole cannot be understood just by examining its separate parts.10 In a tightly coupled system, a change in one of its aspects, such as norms or ideas, is unlikely to have simple, linear effects . T he consequences of any change can be predicted only by considering its interaction with other attributes of the system. For example, whether the spread of the concept of national self-determination promotes peace or war may depend on the material and institutional setting in which it occurs. Negative feedback may cancel out a change that is at odds with the self-correcting logic of the system as a whole. Conversely, in unstable systems, positive feedback may amplify the effects of small changes. More complicated feedback effects may also be possible, depending on the nature of the system. Actions in a system may have different consequences when carried out in different sequences. In social systems, outcomes of an actor's plans depend on strategic interactions with the choices of other independent decision nl.akers. For example, projects for cultural change are likely to provoke cultural counterprojects from those threatened by them. Even in "games against nature," changes in behavior may transform the material setting in ways that foil actors' expectation s. For all these reasons, system effects are likely to skew or derail transformative efforts that focus narrowly on changing a single aspect of social life, such as norms and ideas. All of these system effects are relevant to understanding the effect of culture on conflict in anarchy. As I describe later, anthropological research on war shows that ideas, norms, and culture are typically interconnected with the material and institutional elements of anarchical social systems in ways that produce the full panoply of Jervis's system effects. In such systems, efforts to promote cultural transformation need to take into account the material and situational preconditions that sustain these developments; otherwise they are likely to produce unintended consequences. Underestimating situational constraints is just as dangerous and unwarranted as reifying them. Testing the effects of culture: insights from the anthropology of war Current debates about anarchy and culture have been carried out largely at the level of abstract philosophy and visceral morality. Ultimately, however, the impact of culture on war in anarchy is an empirical question. What evidence should be examined? To assess the claim that behavior in an anarchical system is what the units and their culture make of it, the obvious methodological move is to vary the culture of the units or of the system as a whole and then assess the effect on behavior. Reasonably enough, some scholars who see anarchical behavior as culturally constructed examine contemporary changes, such as the peaceful end of the Cold War, the emergence of the democratic peace, and the purported current strengthening of human rights norms. 11 In assessing such developments , it is difficult to distinguish the hopes of transitional moments from enduring trends . These kinds of tests, while not irrelevant , are not well designed to disentangle the effects of autonomous changes in ideas and culture from the effects of selfjustifying US hegemonic power, an ideological pattern that was quite familiar in the old world order. Other scholars try to show that the progenitor of the contemporary international system-the historical European balance-of-power system among sovereign states-was itself a by-product of ideas, such as the Protestant Reformation or analogies between sovereignty and individual property rights.12 The implication is that whatever has been established by ideas can also be dismantled by ideas. However, it is not a simple task to disentangle the effects of war, state formation, and ideological change on the emergence of the competitive states system. 13 Arguably, a comparison of the European system with behavior in other anarchical state systems offers a methodologically cleaner way to vary culture and assess its effects. However, when cultural constructivists do look at behavior in anarchies in cultural settings radically different from our own, they sometimes fail to exploit obvious opportunities for focused comparison. For example, Ian Johnston's prominent book Cultural Realism shows how the strategic wisdoms of the anarchical ancient Chinese Warring States system were passed down to future generations to constitute a warlike strategic "culture." His adherence to a cultural account of Chinese strategic practices remains untroubled by the fact that these ideas and practices are similar to those of the anarchic European balance- ofpower system, the ancient Greek city-states, and the ancient Indian states system described by Kautilya, a set of cultures diverse in almost every way except their strategic behavior. 14 At a first approximation, it would seem from this evidence that state behavior in anarchy is not fundamentally altered by variations in culture. This is not to deny that cultural differences may have influenced the meaning the actors imputed to their military behavior, some of the goals for which they fought, and some political features of these anarchical systems. Nonetheless, the evidence from historical state systems strongly suggests that the situational incentives of anarchy have significantly shaped strategic behavior in ways that transcend culture. Constructivists have paid less attention to another body of evidence ideally suited to assessing the effects of variations in culture on behavior in anarchy. For decades, anthropologists have been amassing a theoretically rich, empirically substantial, and methodologically self-aware body of statistical and case- study research on the relationship between war and culture in stateless societies and preindustrial anarchic systems. 15 Many of the causal factors and processes they examine will seem strikingly familiar to students of modern international relations-for example, security fears, economic rivalry between groups, economic interdependence, the institutionalization of cooperative ties across political units, the popular accountability of decision makers, and the nature of identities and cultural symbolism of the political units and of the anarchic system as a whole. Notwithstanding the familiarity of these categories, the kinds of societies anthropologists of war study differ vastly from contemporary, industrialized, bureaucratized societies, and thus research findings on the anthropological history of war can not simply be read off and applied to debates about the construction of culture in today's "new world order." Indeed, a central part of the constructivist claim is that the spread of a new democratic culture may be on the verge of making obsolete all those old cultural patterns, whether those of the Cold War, the ancient Chinese Warring States, or warring villages in the Venezuelan jungle. 16 Moreover, evidence based on technologically primitive societies, some of which lack the minimal economic resources needed for assured survival, may load the dice in favor of explanations based on material pressures. However, following the arguments ofDurkheim or Weber, one could also argue that this type of evidence is biased in favor of cultural explanations on the grounds that social solidarity in such societies is achieved more through cultural rituals than through differentiated, rational- legal institutions

**Reps =/= wars**

Rodwell 5—PhD candidate, Manchester Met. (Jonathan, Trendy But Empty: A Response to Richard Jackson, http://www.49thparallel.bham.ac.uk/back/issue15/rodwell1.htm, AMiles)

In this response I wish to argue that the Post-Structural analysis put forward by Richard Jackson is inadequate when trying to understand American Politics and Foreign Policy. The key point is that this is an issue of methodology and theory. I do not wish to argue that language is not important, in the current political scene (or indeed any political era) that would be unrealistic. One cannot help but be convinced that the creation of identity, of defining ones self (or one nation, or societies self) in opposition to an ‘other’ does indeed take place. Masses of written and aural evidence collated by Jackson clearly demonstrates that there is a discursive pattern surrounding post 9/11 U.S. politics and society. [i] Moreover as expressed at the start of this paper it is a political pattern and logic that this language is useful for politicians, especially when able to marginalise other perspectives. Nothing illustrates this clearer than the fact George W. Bush won re-election, for whatever the reasons he did win, it is undeniable that at the very least the war in Iraq, though arguable far from a success, at the absolute minimum did not damage his campaign. Additionally it is surely not stretching credibility to argue Bush performance and rhetoric during the immediate aftermath of the 9/11 attacks also strengthened his position. However, having said that, the problem is Jackson’s own theoretical underpinning, his own justification for the importance of language. If he was merely proposing that the understanding of language as one of many causal factors is important that would be fine. But he is not. The epistemological and theoretical framework of his argument means the ONLY thing we should look at is language and this is the problem.[ii] Rather than being a fairly simple, but nonetheless valid, argument, because of the theoretical justification it actually becomes an almost nonsensical. My response is roughly laid out in four parts. Firstly I will argue that such methodology, in isolation, is fundamentally reductionist with a theoretical underpinning that does not conceal this simplicity. Secondly, that a strict use of post-structural discourse analysis results in an epistemological cul-de-sac in which the writer cannot actually say anything. Moreover the reader has no reason to accept anything that has been written. The result is at best an explanation that remains as equally valid as any other possible interpretation and at worse a work that retains no critical force whatsoever. Thirdly, possible arguments in response to this charge; that such approaches provide a more acceptable explanation than others are, in effect, both a tacit acceptance of the poverty of force within the approach and of the complete lack of understanding of the identifiable effects of the real world around us; thus highlighting the contradictions within post-structural claims to be moving beyond traditional causality, re-affirming that rather than pursuing a post-structural approach we should continue to employ the traditional methodologies within History, Politics and International Relations. Finally as a consequence of these limitations I will argue that the post-structural call for ‘intertextuals’ must be practiced rather than merely preached and that an understanding and utilisation of all possible theoretical approaches must be maintained if academic writing is to remain useful rather than self-contained and narrative. Ultimately I conclude that whilst undeniably of some value post-structural approaches are at best a footnote in our understanding . The first major problem then is that historiographically discourse analysis is so capacious as to be largely of little use. The process of inscription identity, of discourse development is not given any political or historical context, it is argued that it just works, is simply a universal phenomenon. It is history that explains everything and therefore actually explains nothing. To be specific if the U.S. and every other nation is continually reproducing identities through ‘othering’ it is a constant and universal phenomenon that fails to help us understand at all why one result of the othering turned out one way and differently at another time. For example, how could one explain how the process resulted in the 2003 invasion of Iraq but didn’t produce a similar invasion of Afghanistan in 1979 when that country (and by the logic of the Regan administrations discourse) the West was threatened by the ‘Evil Empire’. By the logical of discourse analysis in both cases these policies were the result of politicians being able to discipline and control the political agenda to produce the outcomes. So why were the outcomes not the same? To reiterate the point how do we explain that the language of the War on Terror actually managed to result in the eventual Afghan invasion in 2002? Surely it is impossible to explain how George W. Bush was able to convince his people (and incidentally the U.N and Nato) to support a war in Afghanistan without referring to a simple fact outside of the discourse; the fact that a known terrorist in Afghanistan actually admitted to the murder of thousands of people on the 11h of Sepetember 2001. The point is that if the discursive ‘othering’ of an ‘alien’ people or group is what really gave the U.S. the opportunity to persue the war in Afghanistan one must surly wonder why Afghanistan. Why not North Korea? Or Scotland? If the discourse is so powerfully useful in it’s own right why could it not have happened anywhere at any time and more often? Why could the British government not have been able to justify an armed invasion and regime change in Northern Ireland throughout the terrorist violence of the 1980’s? Surely they could have just employed the same discursive trickery as George W. Bush? Jackson is absolutely right when he points out that the actuall threat posed by Afghanistan or Iraq today may have been thoroughly misguided and conflated and that there must be more to explain why those wars were enacted at that time. Unfortunately that explanation cannot simply come from the result of inscripting identity and discourse. On top of this there is the clear problem that the consequences of the discursive othering are not necessarily what Jackson would seem to identify. This is a problem consistent through David Campbell’s original work on which Jackson’s approach is based[iii]. David Campbell argued for a linguistic process that ‘always results in an other being marginalized’ or has the potential for ‘demonisation’[iv]. At the same time Jackson, building upon this, maintains without qualification that the systematic and institutionalised abuse of Iraqi prisoners first exposed in April 2004 “is a direct consequence of the language used by senior administration officials: conceiving of terrorist suspects as ‘evil’, ‘inhuman’ and ‘faceless enemies of freedom creates an atmosphere where abuses become normalised and tolerated”[v]. The only problem is that the process of differentiation does not actually necessarily produce dislike or antagonism. In the 1940’s and 50’s even subjected to the language of the ‘Red Scare’ it’s obvious not all Americans came to see the Soviets as an ‘other’ of their nightmares. And in Iraq the abuses of Iraqi prisoners are isolated cases, it is not the case that the U.S. militarily summarily abuses prisoners as a result of language. Surely the massive protest against the war, even in the U.S. itself, is also a self evident example that the language of ‘evil’ and ‘inhumanity’ does not necessarily produce an outcome that marginalises or demonises an ‘other’. Indeed one of the points of discourse is that we are continually differentiating ourselves from all others around us without this necessarily leading us to hate fear or abuse anyone.[vi] Consequently, the clear fear of the Soviet Union during the height of the Cold War, and the abuses at Abu Ghirab are unusual cases. To understand what is going on we must ask how far can the process of inscripting identity really go towards explaining them? As a result at best all discourse analysis provides us with is a set of universals and a heuristic model.

## 1AR

### Topicality

#### CIC is a subset of war powers

Turner 05 (Robert, Doctorates from the University of Virginia School of Law, co-founded the Center for National Security Law with Professor John Norton Moore in April 1981 and has served as its Associate Director, “The War Powers Resolution: An Unnecessary, Unconstitutional Source of "Friendly Fire" in the War Against International Terrorism?”, <http://www.fed-soc.org/publications/detail/the-war-powers-resolution-an-unnecessary-unconstitutional-source-of-friendly-fire-in-the-war-against-international-terrorism>)

**Article I, section 8, clause 11, of the Constitution grants to Congress the power "to declare War**." As Hamilton noted in 1793, this was an "exception**" to the general grant of "executive power**" **to the President, and thus was** intended to be narrowly construed [15]

**One of the common errors in discussing the scope of this exception to the President's** general "**executive Power**"-a power **reinforced by the specific recognition in article II**, section 2, **that "[t]he President shall be Commander in Chief of the Army and Navy of the United States"** [16] -**has been to focus on the meaning of the term "War" under the Constitution**. Congress is not granted the power of "War," but rather the more limited power "to declare War," **which was a term of art from the Law of Nations with a clearly understood meaning in 1787**.

The Framers were remarkably well-read men. **The publicists with whom they were familiar in this area**-writers like Grotius, Vattel, and Burlamaqui-all argued that a formal declaration of war was unnecessary for defensive hostilities [17]. **It was only when nations were at peace and one wished to initiate an offensive** (or what we would today call an aggressive) war that it was necessary to declare war. **And this distinction** between the President's right to use force defensively, but requiring legislative sanction to initiate an offensive war, **was evident in the debate at the Philadelphia Convention over Madison's motion to give Congress not the power "to make War," but the more narrow power "to declare War."** [18] In 1928 [19] and again in 1945 [20] , the world community by treaty outlawed the aggressive use of force among nations, and in the process made the declaration of war clause a constitutional anachronism. It is no coincidence that no sovereign state has clearly issued a declaration of war in more than half a century [21].

#### Authority is the permission to act –

#### 1. We Meet – Treaties create binding limitations

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Third, treaties reflect limitations to which the Senate at least has already given its formal advice and consent. The Senate itself and the President, for example, have previously considered and approved the limitations on the use of force that are codified in treatiessuch as the Geneva Conventions. Moreover, in approving such treaties, the Senate has considered the scope of appropriate force in the same context (in one sense) as it arises in the following case: defining and limiting the actions that the U.S. military is permitted to take. This is a separate argument from the desire to avoid repeal of domestic law, which would apply only to self-executing treaties. n202 Here, the point is that the limitation on the use of force is one that the Senate has already considered and approved, and this point applies to non-self-executing as well self-executing treaties.

In summary, there are excellent reasons based on the presumed intentions of Congress to apply the Charming Betsy canon in interpreting general authorizations for the use of force by Congress. Potential objections about the use of customary international law as an interpretive norm are at least partially answered by the role that the United States has played in the development of international humanitarian law, the clear commitment of the Executive Branch to comply with that law, and the (at least relatively) well-defined content of this branch of customary international law.

#### 2. Statuory includes treaties

RHD 13

(Random House Dictionary, <http://dictionary.reference.com/browse/statute>)

stat·ute  [stach-oot, -oot] Show IPA noun 1. Law. a. an enactment made by a legislature and expressed in a formal document. b. the document in which such an enactment is expressed. 2. International Law. an instrument annexed or subsidiary to an international agreement, as a treaty.

#### the president has the permission to conduct different war operations. Presidential WAR POWERS are about how to fight – the plan restricts that

**Kelly 93** – Judge Advocate General's Corps @ US Army [Major Michael P. Kelly (JD from University of California-Davis (87) and Graduate of The Judge Advocate General's School (92), “Fixing The War Powers,” Military Law Review, 141 Mil. L. Rev. 83, Summer 1993

First, the model for the war powers comports with the framers' intellectual foundations. They divided the powers between two coordinate branches to prevent accumulation of power. 193 They formulated a somewhat unique and experimental' check by dividing the war powers along functional lines-decisional and operational. To exercise the power, the two political branches would have to cooperate. The Congress could authorize war and the Executive would conduct war operations. This division of responsibility advanced the framers' goal of resurrecting balanced government.

Second, the model for the war powers fits the framers' desire to match institutional strengths with specific functions.' 9 5 By nature, the war power could be bifurcated along functional lines; the framers perceived the need for a policy level decision-maker and a responsive commander. From historical antecedents, the framers realized that the legislative branch would be a safe repository for decision-making of such great national importance, 9 6 and that the executive branch would be the ideal executor. Thus, the framers achieved their goal of effective war powers, at least from a functional perspective.

#### The resolution just uses the term of art from the WAR POWERS RESOLUTION – which is just the assignment of the armed forces.

WAR POWERS RESOLUTION 73 [50 USC Chapter 33 - WAR POWERS RESOLUTION, § 1547 - Interpretation of joint resolution, http://www.law.cornell.edu/uscode/text/50/1541]

(c) Introduction of United States Armed Forces

For purposes of this chapter, 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 when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

### K

#### AT: Pos Peace

Tarak **BARKAWI** Associate Professor of Politics at the New School for Social Research **’12** “Of Camps and Critiques: A Reply to ‘Security, War, Violence’” *Millennium* 41 (1) p. 129-130

A final totalising move in ‘Security, War, Violence’ is the idea that the study of war should be subsumed under the category of ‘violence’. The reasons offered for this are: violence does not entail a hierarchy in which war is privileged; a focus on violence encourages us to see war in relational terms and makes visible other kinds of violence besides that of war; and that the analysis of violence somehow enables the disentangling of politics from war and a proper critique of liberal violence.22 I have no particular objection to the study of violence, and I certainly think there should be more of it in the social sciences. However, why and how this obviates or subsumes the study of war is obscure to me. Is war not historically significant enough to justify inquiry into it? War is a more specific category relative to violence in general, referring to reciprocal organised violence between political entities. I make no claims that the study of war should be privileged over that of other forms of violence. Both the violence of war, and that of, say, patriarchy, demand scholarly attention, but they are also distinct if related topics requiring different forms of theorisation and inquiry. As for relationality, the category of war is already inherently relational; one does not need the concept of violence in general to see this. What precisely distinguishes war from many other kinds of violence, such as genocide or massacre, is that war is a relational form of violence in which the other side shoots back. This is ultimately the source of war’s generative social powers, for it is amidst the clash of arms that the truths which define social and political orders are brought into question. A broader focus on violence in general risks losing this central, distinctive character of the violence of war. Is it really more theoretically or politically adequate to start referring to the Second World War as an instance of ‘violence’? Equally, while I am all for the analysis of liberal violence, another broad category which would include issues of ‘structural violence’, I also think we have far from exhausted the subject of liberalism and war, an important area of inquiry now dominated by the mostly self-serving nostrums of the liberal peace debates.

#### Psychoanalysis causes passivity, fatalism and inaction

Gordon, 2001 (Paul, psychotherapist living and working in London, author of Face to Face: Therapy as ethics, RACE & CLASS, v42, n4, p. 30/1)

The postmodernists' problem is that they cannot live with dis-appointment. All the tragedies of the political project of emancipation--the evils of Stalinism m particular – are seen as the inevitable product of men and women trying to create a better society. But, rather than engage in a critical assessment of how, for instance, radical political movements go wrong, they discard the emancipatory project and impulse itself. The postmodernists, as Sivanandan puts it, blame modernity for having failed them: ‘the intellectuals and academics have fled into discourse and deconstruction and representation - as though to interpret the world is more important than to change'it, as though changing the interpretation is all we could do in a changing world'.58 To justify their flight from a politics holding out the prospect of radical change through self-activity, the disappointed intellectuals find abundant intellectual alibis for themselves in the very work they champion, including, in Cohen's case, psychoanalysis. What Marshall Berman says of Foucault seems true also of psychoanalysis; that it offers 'a world-historical alibi' for the passivity andhelplessness felt by many in the ly/Os, and that it has nothing out contempt for those naive enough to imagine that it might be possible for modern human¬kind to be free. At every turn for such theorists, as Berman argues, whether in sexuality, politics, even our imagination, we are nothing but prisoners: there is no freedom in Foucault's world, because his language forms a seamless web, a cage far more airtight than anything Weber ever dreamed of, into which no life can break . . . There is no point in trying to resist the oppressions and injustices of modern life, since even our dreams of freedom only add more links to our chains; how¬ever, once we grasp the futility of it all, at least we can relax. In their move from politics to the academy and the world of 'discourse', the postmodernists may have simply exchanged one grand narrative, historical materialism, for anotner, psychoanalysis. For psychoanalysis is a grand narrative, par excellence. It is a theory that seeks to account for the world and which recognises few limits on its explanatory potential. And the claimed radicalism of psychoanalysis, in the hands of the postmodernists at least is not a radicalism at all but a prescription for a politics of quietism, fatalism, and defeat. Those wanting to change the world, not just to interpret it need to look elsewhere.

#### No Tradeoff. Human security concept of Ottawa solves. it is a good place to start challenging the security apparatus

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But this critique is not undertaken with the intention of excluding realism from this debate. It would be profoundly uuwise to seek to marginalize the potential in realist positivist methodologies and **institutional experience**. It would also be reckless to forget their **global influence**. Other methodologies are as yet insufficiently established in realist global security architectures and thinking. Rather, it would seem intellectually healthy to **expand cooperation** **across disciplines and methodological boundaries** and to consider the roles of representation and rights more broadly in **human security** determinism. In identifying human insecurity creation within the dominant paradigm's assumptions and beliefs itself, we can no longer claim ignorance, or allow our ego defences to bypass our intellectual potential and human responsibilities. To the contrary, this work proposes the possibility of interdisciplinary alliances to **reprioritize human security** on the mainstream IR security agenda in order that we may accept and confront the institutional and structural roots of such enormous, **avoidable human catastrophes** as this work outlines. It has not been impossible to draw together different methodologies and epistemologies in a common security cause. Indeed, the basis of the quantitative data involved here reflects the positivist tradition. Already, at least one attempt has been made to broaden intellectual comprehension of wider security and its relevance to realism and IR in general. The notion of the 'security-development nexus' was expected by some to connect development issues to security debates. This relationship between economic impoverishment and international instability and insecurity has, however, proved difficult to establish and harder to sustain. The limited evidence presented in this book has affirmed relationships between economic impoverishment from international institutional edict, on the one hand, and low-intensity political instabilities at the domestic state level, on the other. But it has not demonstrated long-term damage to states' legitimacy or, on its own, led states to fail. Furthermore, no evidence assessed here indicates terrorist opportunism or interstate 'contagion', whereby one state's problems are transmitted to a neighbouring state, as in a latter-day 'domino theory'. Research is still in its early days, but there is little to sustain the role of the securitydevelopment nexus in state destabilization on its own; other factors are normally at work, such as resource finds, corruption, pre-existing ethnic tensions, greed and grievance, and so on (see also Cooper 2006; Duffield 2001). Legitimizing human security through sometimes spurious connections has not yet demonstrably helped undermine human insecurity. Retaining the development angle, however, and coupling it to legal institutions, might be a route worth considering. Although there is, as realists would rightly confirm, no overarching legal institution capable of reliably and regularly maintaining the rule of law in a state system that has no supra-governmental body, the range and capacity of cooperative international law have enjoyed some welcotne successes in areas considered out of range until very recently. Nor would a new architecture of law need to be established; emerging current practice has produced some heartening results for justice. For example, there have been trials at The Hague of dictators and despots; General Pinochet was questioned by police in London and legally harassed by Spanish judge Baltasar Garzon. Dr Henry Kissinger must consider with caution his international movements, a scenario unimaginable only recently. It is not beyond consideration that a similar, robust approach to **enforcing the basic right to life** enshrined in the UN and other constitutions could be refined, with executive decision-makers in IFIs and state legislatures becoming subject to **legal scrutiny** for failing to prevent avoidable deaths in the domains this book identifies. Hayden, for one, maintains that 'feasible alternative decisions and actions can be taken; alternative institutional schemes can be implemented which do not produce pervasive, persistent and radical inequality' (2007: 289). Given that the right to life is a basic right, should it not be protected as other essential laws are? And, given that life is being taken in the millions (since so many of these deaths are clearly avoidable), would it not be reasonable to link development to human rights and have that relationship fonnalized, enshrined and protected? Making moral arguments about human security has so far not made a sufficient difference to the daily casualties; and conceptualizing a potential realist nexus has been problematic. But if human rights were linked to development levels at which lethal human insecurity ceased, and these were taken seriously and enforced, levels of development would presumably have to rise, or those charged with achieving economic development and failing would presumably be held responsible. There is also evidence that human security itself has emerged as successful governmental policy, on the one hand, and that it has also mobilized global civil society. There is further potential, where governments can be convinced of the 'unassailable integrity' of a human security issue and mindful of the **positive benefits to such governments** **as well**, to extend aspects of this approach to the issues outlined in this work. It is said that 'the master's tools will never dismantle the master's house' (Audre Lord). But there are various approaches to challenging the 'deeply sedimented' structures involved; there are **processes of institutionalization** that may be replicated with different outcomes; and human agency is not solely negative for human insecurity. The current system is composed of ideational structure (andrarchy and neoliberalism) transmitting human agency (resulting in human insecurity) through international institutions. Already in existence are two counterparts for the reduction of human insecurity which also are recognized in the IR and social constructivism literature. Positive human agency exists in the form of the millions of people who are acting already to challenge the poverty that kills millions; in the form of the millions who confront global neoliberalism; in the form of the hundreds of millions of socially aware and responsible human beings who donate to human security and environmental causes (the two are obviously interwoven in some areas); or in the form of activists who lobby individually or in groups about what they perceive as human and social injustice. Simultaneously, this human agency forms and acts both independently of and in partnership with already extant international institutions. These may be state international bodies such as the UN or private charities like Oxfam, Medicins Sans Frontieres, and thousands of other bodies, large and small. In other words, two countervailing elements of global organization for human security are running functionally and with great effect. Where they are lacking is in **ideational hegemony**: the ability to uproot Waever's 'solidly sedimented' structures (2002: 32). It is regrettable, but this will not happen overnight. We should not, however, rule out the capacity of regimes to form additional international norms and arrangements. We are apprised already of their social construction rather than their magical appearance; it is not unreasonable to expect Conclusion 183 that the Ottawa Convention outcome that resulted in the banning of landmine use and export by a vast majority of states can be replicated. This outcome relied on a combination of global civil society campaigning; survivor activism, where, for example, Cambodian amputees travelled the Western world and described the physical conditions they experienced and the personal, social and economic ramifications of their experiences; celebrity support; media interventions; and it has also benefited from the high-profile intervention of British royalty (this list is not exhaustive). Many states involved in supporting the campaign were in part influenced by their own publics' increasing consciousness of this single issue of unchallengeable importance and moral value (other than a politician who described land mine clearance as 'politically correct'). According to Keohane, where states' governing politicians share a common interest of serving their citizens and maintaining office over non-zero-sum issues, they have shown a propensity to embark on cooperative action through institutions (1984; Murphy 2000: 798). An issue with such gravitas that might be identified as a single issue, but with a multidimensional background, such as the under-five mortality rate, is one of a number that would engage global public concern through institutional mobilization and heightened public consciousness from the ground up, without having to eliminate or otherwise transform the ideational superstructure that directly and indirectly causes such huge human insecurity in this area. While this approach does little to undo the structural determinism of the USMR, it does much to instigate international state and civil society mobilization, coordination and human security impact. If the ideational structure's hegemony of status and discourse cannot immediately be deconstructed (in the mechanistic sense), challenging its consequences from the ground upwards can not only have an impact like the Ottawa Convention (which is not without flaws), but can also expose gradually the institutional derivation from neoliberal domination of the human insecurity problem in the first instance. This is not a model for the elimination of global human insecurity, but it is a challenge to those who deny relationships between gender and security; between human agency (social construction) and lethal outcome; and between elite masculine determinism of security and the relative weakness of the boys, girls and women who experience the consequences of the hegemony of the masculine approach to securitization.