# 1ac – adv 1

**Contention one is multilat**

**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 – locking ourselves within the multilateral system is key to 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.

**US respect for norms, treaties, and multilateralism solves global problems, multiple scenarios for great power conflict. The alternative is global anarchy**

**Kromah 9** (Lamii Moivi Kromah, Department of International Relations University of the Witwatersrand, February 2009, “The Institutional Nature of U.S. Hegemony: Post 9/11”, http://wiredspace.wits.ac.za/bitstream/handle/10539/7301/MARR%2009.pdf)

A final major gain to the United States from the Pax Americana has perhaps been less widely appreciated. It nevertheless proved of great significance in the short as well as in the long term: the pervasive cultural influence of the United States. This dimension of power base is often neglected. After World War II the authoritarian political cultures of Europe and Japan were utterly discredited, and the liberal democratic elements of those cultures revivified. The revival was most extensive and deliberate in the occupied powers of the Axis, where it was nurtured by drafting democratic constitutions, building democratic institutions, curbing the power of industrial trusts by decartelization and the rebuilding of trade unions, and imprisoning or discrediting much of the wartime leadership; post war reconstruction of Germany and Japan exhibit all these features. Moderates were giving a great voice in the way government business was done Constitutions in these countries were changed and amended to ensure democratic practices and martial elites were prosecuted. American liberal ideas largely filled the cultural void. The effect was not so dramatic in the "victor" states whose regimes were reaffirmed (Britain, the Low and Scandinavian countries), but even there the United States and its culture was widely admired. The upper classes may often have thought it too "commercial," but in many respects American mass consumption culture was the most pervasive part of America's impact. American styles, tastes, and middle-class consumption patterns were widely imitated, in a process that' has come to bear the label "coca-colonization."34 After WWII the U.S. established organizations such as the United Nations, NATO and others. In each these new regimes it make Germany a member and eventual an integral partner. Germany's freedom of movement has been limited by domestic institutional constraints overlain by a dense network of external institutional constraints on autonomous decision making in the domains of security and economy. Thus a powerful combination of constitutional design, membership in integrative international institutions and the continued division of Germany achieved the post-war American objective of 'security for Germany and security from Germany'.35 Others are even more sanguine about the prospect of an active German hegemony. One body of literature, such as Simon Bulmer and William E. Paterson, 'Germany in the European Union: Gentle Giant or Emergent Leader?' International Affairs, 72 (1996), 9-32., focuses upon the constraining effects of Germany's 'exaggerated multilateralism' or a reliance upon 'indirect institutional power'." The institutionalization of German power has produced an empowered but non-threatening Germany that sets the European agenda and dominates the institutional evolution of the European Union (EU) and its governance structures.36 The cornerstone of German security policy is the perpetuation of NATO, including the maintenance of U.S. forces in Europe and the U.S. nuclear guarantee. In 1994 German Chancellor Helmut Kohl described the U.S. presence as an "irreplaceable basis for keeping Europe on a stable footing," and that sentiment is echoed routinely by high German officials. German participation in the Western European Union and the Eurocorps has been based on the presumption that European military forces must be integrated into NATO rather than standing as autonomous units.37For industrial societies, the Second World War destroyed more wealth than it created because it disrupted the global trade on which wealth had come to depend. No longer could states gain in wealth by seizing territory and resources from each other as they had done during the mercantilist period in the seventeenth and eighteenth century. WWII broke the world power of the Western European states. Even without the advent of nuclear weapons, it drove home the lesson of the First World War that the major European states could no longer wage war amongst themselves without bringing about the political and physical impoverishment of their societies, and perhaps destroying them completely. By 1945 it was clear that all out war had become an irrational instrument in relations among major powers. Almost no conceivable national objective short of lastditch survival justified the costs of undertaking it. This lesson was as manifestly true for revolutionary workers’ states like the Soviet Union as it was for conservative, bourgeois, capitalist states like Britain and France.38 A final major gain to the United States from the benevolent hegemony has perhaps been less widely appreciated. It nevertheless proved of great significance in the short as well as in the long term: the pervasive cultural influence of the United States.39 This dimension of power base is often neglected. After World War II the authoritarian political cultures of Europe and Japan were utterly discredited, and the liberal democratic elements of those cultures revivified. The revival was most extensive and deliberate in the occupied powers of the Axis, where it was nurtured by drafting democratic constitutions, building democratic institutions, curbing the power of industrial trusts by decartelization and the rebuilding of trade unions, and imprisoning or discrediting much of the wartime leadership. American liberal ideas largely filled the cultural void. The effect was not so dramatic in the "victor" states whose regimes were reaffirmed (Britain, the Low and Scandinavian countries), but even there the United States and its culture was widely admired. The upper classes may often have thought it too "commercial," but in many respects American mass consumption culture was the most pervasive part of America's impact. American styles, tastes, and middle-class consumption patterns were widely imitated, in a process that' has come to bear the label "coca-colonization."40 After WWII policy makers in the USA set about remaking a world to facilitate peace. The hegemonic project involves using political and economic advantages gained in world war to restructure the operation of the world market and interstate system in the hegemon's own image. The interests of the leader are projected on a universal plane: What is good for the hegemon is good for the world. The hegemonic state is successful to the degree that other states emulate it. Emulation is the basis of the consent that lies at the heart of the hegemonic project.41 Since wealth depended on peace the U.S set about creating institutions and regimes that promoted free trade, and peaceful conflict resolution. U.S. benevolent hegemony is what has kept the peace since the end of WWII. The upshot is that U.S. hegemony and liberalism have produced the most stable and durable political order that the world has seen since the fall of the Roman Empire. It is not as formally or highly integrated as the European Union, but it is just as profound and robust as a political order, Kant’s Perpetual Peace requires that the system be diverse and not monolithic because then tyranny will be the outcome. As long as the system allows for democratic states to press claims and resolve conflicts, the system will perpetuate itself peacefully. A state such as the United States that has achieved international primacy has every reason to attempt to maintain that primacy through peaceful means so as to preclude the need of having to fight a war to maintain it.42 This view of the post-hegemonic Western world does not put a great deal of emphasis on U.S. leadership in the traditional sense. U.S. leadership takes the form of providing the venues and mechanisms for articulating demands and resolving disputes not unlike the character of politics within domestic pluralistic systems.43 **America as a big and powerful state has an incentive to organize and** manage a political order that is considered legitimate by the other states. It is not in a hegemonic leader's interest to preside over a global order that requires constant use of material capabilities to get other states to go along. Legitimacy exists when political order is based on reciprocal consent. It emerges when secondary states buy into rules and norms of the political order as a matter of principle, and not simply because they are forced into it. But if a hegemonic power wants to encourage the emergence of a legitimate political order, it must articulate principles and norms, and engage in negotiations and compromises that have very little to do with the exercise of power.44 So should this hegemonic power be called leadership, or domination? Well, it would tend toward the latter. Hierarchy has not gone away from this system. Core states have peripheral areas: colonial empires and neo-colonial backyards. Hegemony, in other words, involves a structure in which there is a hegemonic core power. The problem with calling this hegemonic power "leadership" is that leadership is a wonderful thing-everyone needs leadership. But sometimes I have notice that leadership is also an ideology that legitimates domination and exploitation. In fact, this is often the case. But this is a different kind of domination than in earlier systems. Its difference can be seen in a related question: is it progressive? Is it evolutionary in the sense of being better for most people in the system? I think it actually is a little bit better. The trickle down effect is bigger-it is not very big, but it is bigger.45 It is to this theory, Hegemonic Stability that the glass slipper properly belongs, because both U.S. security and economic strategies fit the expectations of hegemonic stability theory more comfortably than they do other realist theories. We must first discuss the three pillars that U.S. hegemony rests on structural, institutional, and situational. (1) Structural leadership refers to the underlying distribution of material capabilities that gives some states the ability to direct the overall shape of world political order. Natural resources, capital, technology, military force, and economic size are the characteristics that shape state power, which in turn determine the capacities for leadership and hegemony. If leadership is rooted in the distribution of power, there is reason to worry about the present and future. The relative decline of the United States has not been matched by the rise of another hegemonic leader. At its hegemonic zenith after World War II, the United States commanded roughly forty five percent of world production. It had a remarkable array of natural resource, financial, agricultural, industrial, and technological assets. America in 1945 or 1950 was not just hegemonic because it had a big economy or a huge military; it had an unusually wide range of resources and capabilities. This situation may never occur again. As far as one looks into the next century, it is impossible to see the emergence of a country with a similarly commanding power position. (2) Institutional leadership refers to the rules and practices that states agree to that set in place principles and procedures that guide their relations. It is not power capabilities as such or the interventions of specific states that facilitate concerted action, but the rules and mutual expectations that are established as institutions. Institutions are, in a sense, self-imposed constraints that states create to assure continuity in their relations and to facilitate the realization of mutual interests. A common theme of recent discussions of the management of the world economy is that institutions will need to play a greater role in the future in providing leadership in the absence of American hegemony. Bergsten argues, for example, that "institutions themselves will need to play a much more important role.46 Institutional management is important and can generate results that are internationally greater than the sum of their national parts. The argument is not that international institutions impose outcomes on states, but that institutions shape and constrain how states conceive and pursue their interests and policy goals. They provide channels and mechanisms to reach agreements. They set standards and mutual expectations concerning how states should act. They "bias" politics in internationalist directions just as, presumably, American hegemonic leadership does. (3) Situational leadership refers to the actions and initiatives of states that induce cooperation quite apart from the distribution of power or the array of institutions. It is more cleverness or the ability to see specific opportunities to build or reorient international political order, rather than the power capacities of the state, that makes a difference. In this sense**, leadership really is expressed in a specific individual-in a president or foreign minister-as he or she sees a new opening, a previously unidentified passage forward, a new way to define state interests, and thereby transforms existing relations**. Hegemonic stability theorists argue that international politics is characterized by a succession of hegemonies in which a single powerful state dominates the system as a result of its victory in the last hegemonic war.47 Especially after the cold war America can be described as trying to keep its position at the top but also integrating others more thoroughly in the international system that it dominates. It is assumed that the differential growth of power in a state system would undermine the status quo and lead to hegemonic war between declining and rising powers48, but I see a different pattern: the U.S. hegemonic stability promoting liberal institutionalism, the events following 9/11 are a brief abnormality from this path, but the general trend will be toward institutional liberalism. Hegemonic states are the crucial components in military alliances that turn back the major threats to mutual sovereignties and hence political domination of the system. Instead of being territorially aggressive and eliminating other states, hegemons respect other's territory. They aspire to be leaders and hence are upholders of inter-stateness and inter-territoriality.49 The nature of the institutions themselves must, however, be examined. They were shaped in the years immediately after World War II by the United States. The American willingness to establish institutions, the World Bank to deal with finance and trade, United Nations to resolve global conflict, NATO to provide security for Western Europe, is explained in terms of the theory of collective goods. It is commonplace in the regimes literature that the United States, in so doing, was providing not only private goods for its own benefit but also (and perhaps especially) collective goods desired by, and for the benefit of, other capitalist states and members of the international system in general. (Particular care is needed here about equating state interest with "national" interest.) Not only was the United States protecting its own territory and commercial enterprises, it was providing military protection for some fifty allies and almost as many neutrals. Not only was it ensuring a liberal, open, near-global economy for its own prosperity, it was providing the basis for the prosperity of all capitalist states and even for some states organized on noncapitalist principles (those willing to abide by the basic rules established to govern international trade and finance). While such behaviour was not exactly selfless or altruistic, certainly the benefits-however distributed by class, state, or region-did accrue to many others, not just to Americans.50 For the truth about U.S. dominant role in the world is known to most clear-eyed international observers. And the truth is that the benevolent hegemony exercised by the United States is good for a vast portion of the world's population. It is certainly a better international arrangement than all realistic alternatives. To undermine it would cost many others around the world far more than it would cost Americans-and far sooner. As Samuel Huntington wrote five years ago, before he joined the plethora of scholars disturbed by the "arrogance" of American hegemony; "A world without U.S. primacy will be a world with more violence and disorder and less democracy and economic growth than a world where the United States continues to have more influence than any other country shaping global affairs”.51 I argue that the overall American-shaped system is still in place. It is this macro political system-a legacy of American power and its liberal polity that remains and serves to foster agreement and consensus. This is precisely what people want when they look for U.S. leadership and hegemony.52 If the U.S. retreats from its hegemonic role, who would supplant it, not Europe, not China, not the Muslim world –and certainly not the United Nations. Unfortunately, the alternative to a single superpower is not a multilateral utopia, but the anarchic nightmare of a New Dark Age. Moreover, the alternative to unipolarity would not be multipolarity at all. It would be ‘apolarity’ –a global vacuum of power.53 Since the end of WWII the United States has been the clear and dominant leader politically, economically and military. But its leadership as been unique; it has not been tyrannical, its leadership and hegemony has focused on relative gains and has forgone absolute gains. The difference lies in the exercise of power. The strength acquired by the United States in the aftermath of World War II was far greater than any single nation had ever possessed, at least since the Roman Empire. America's share of the world economy, the overwhelming superiority of its military capacity-augmented for a time by a monopoly of nuclear weapons and the capacity to deliver them--gave it the choice of pursuing any number of global ambitions. That the American people "might have set the crown of world empire on their brows," as one British statesman put it in 1951, but chose not to, was a decision of singular importance in world history and recognized as such.54 Leadership is really an elegant word for power. To exercise leadership is to get others to do things that they would not otherwise do. It involves the ability to shape, directly or indirectly, the interests or actions of others. Leadership may involve the ability to not just "twist arms" but also to get other states to conceive of their interests and policy goals in theory thus shifts from the ability to provide a public good to the ability to coerce other states. A benign hegemon in this sense coercion should be understood as benign and not tyrannical. If significant continuity in the ability of the United States to get what it wants is accepted, then it must be explained. The explanation starts with our noting that the institutions for political and economic cooperation have themselves been maintained. Keohane rightly stresses the role of institutions as "arrangements permitting communication and therefore facilitating the exchange of information. By providing reliable information and reducing the costs of transactions, **institutions can permit cooperation to continue even after a hegemon's influence has eroded.** Institutions provide opportunitiesfor commitment and for observing whether others keep their commitments. Such opportunities are virtually essential to cooperation in non-zero-sum situations, as gaming experiments demonstrate. **Declining hegemony and stagnant (but not decaying) institutions may therefore be consistent with a stable provision of desired outcomes**, although **the ability to promote new levels of cooperation to deal with new problems (e.g., energy supplies, environmental protection) is more problematic**. Institutions nevertheless provide a part of the necessary explanation.56 In restructuring the world after WWII it was America that was the prime motivator in creating and supporting the various international organizations in the economic and conflict resolution field. An example of this is NATO’s making Western Europe secure for the unification of Europe. It was through NATO institutionalism that the countries in Europe where able to start the unification process. The U.S. working through NATO provided the security and impetus for a conflict prone region to unite and benefit from greater cooperation. Since the United States emerged as a great power, the new ways. This suggests a second element of leadership, which involves not just the marshalling of power capabilities and material resources. It also involves the ability to project a set of political ideas or principles about the proper or effective ordering of po1itics. It suggests the ability to produce concerted or collaborative actions by several states or other actors. Leadership is the use of power to orchestrate the actions of a group toward a collective end.55 By validating regimes and norms of international behaviour the U.S. has given incentives for actors, small and large, in the international arena to behave peacefully. The uni-polar U.S. dominated order has led to a stable international system. Woodrow Wilson’s zoo of managed relations among states as supposed to his jungle method of constant conflict. The U.S. through various international treaties and organizations as become a quasi world government; It resolves the problem of provision by imposing itself as a centralized authority able to extract the equivalent of taxes. The focus of the identification of the interests of others with its own has been the most striking quality of American foreign and defence policy. Americans seem to have internalized and made second nature a conviction held only since World War II: Namely, that their own wellbeing depends fundamentally on the well-being of others; that American prosperity cannot occur in the absence of global prosperity; that American freedom depends on the survival and spread of freedom elsewhere; that aggression anywhere threatens the danger of aggression everywhere; and that American national security is impossible without a broad measure of international security.57

thank you

**Nuclear war and extinction are inevitable absent multilateralism**

**Dyer, 4** (Gwynne, Ph.D. in War Studies – University of London and Board of Governors – Canada’s Royal Military College, “The End of War”, Toronto Star, 12-30, Lexis)

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.

**Ratifying is key to smooth transition to internationalism – it’s an apology for the other unilateral actions we have taken**

**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.

**US accession sends a clear signal that gets other countries on board**

**Borman 11** (Windy Borman, researcher, Founder and CEO of DVA Productions, multi-award-winning Director and Producer, “How can we Ban Landmines?” April 5, 2011, http://www.eyesofthailand.com/2011/04/05/how-can-we-ban-landmines/)

Secondly, if we can get the United States of America to sign the Mine Ban Treaty, it would **send a clear message** to the remaining countries that all types of anti-personnel weapons (landmines, cluster bombs, etc.) are unacceptable and it would **force the other countries to step up** because they **couldn’t hide behind the U.S. any more.** As it turns out, the International Campaign to Ban Landmines (ICBL) agrees with me about the importance of getting the United States on board!-) Below is a copy of their press release: Groups Worldwide Urge the U.S. to Ban Landmines Geneva, 1 March 2011 – Civil society groups worldwide are calling on the United States to ban antipersonnel landmines immediately, said the Nobel Peace Prize-winning International Campaign to Ban Landmines (ICBL) today, as the Mine Ban Treaty turned twelve. Campaign members will meet today and throughout the month with U.S. representatives in dozens of countries to urge the U.S. to join the Mine Ban Treaty. “It is absurd that the U.S. continues to cling to a weapon that is so horrific that **only** a country like **Myanmar still uses** it,” said Sylvie Brigot, Executive Director of the International Campaign to Ban Landmines. “If nearly all of the United States’ closest military allies were able to remove antipersonnel mines from their arsenal without compromising their national security, we are confident the U.S. can as well.” The Obama Administration started a comprehensive review of its landmine policy in late 2009 to determine whether to join the Mine Ban Treaty. Officials have consulted with allies, States Parties to the treaty, international organizations, civil society including landmine survivors, and former military personnel. No date for completing the review has been made public yet. By joining the Mine Ban Treaty, the U.S. would help send a **clear signal** that all types of antipersonnel mines are unacceptable weapons, would strengthen international security, and would **spur to action** some of the other 38 states still outside the treaty.

**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.

# Plan Text

**The United States federal government should consent to be bound by the Mine Ban Treaty to prohibit the introduction of anti-personnel landmine armed forces into hostilities.**

# 1ac – adv. 2

**Contention two is future weapons**

**The line between peaceful and military nanotech is blurred --- absent effective regulation, new nanotech weaponry will lead to extinction**

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.

**New nanotechnology weapons are an existential risk --- it outweighs**

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.

**Credibility of international legal principles of superfluous injury and non-combatants is the only way to effectively regulate future nano-weapons**

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.**

**Current legal resolution on the law of armed conflict lacks incorporation of strong principles of civilian provisions --- it collapses its effectiveness**

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.

**This allows for unchecked forms of future weapon conflict --- they escalate and cause extinction --- an adjustment of the LOAC is key**

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.

**These impacts outweigh**

**Bao 07** (Shixiu Bao, senior fellow of military theory studies and international relations at the Institute for Military Thought Studies, visiting scholar at the Virginia Military Institute, “Deterrence Revisited: Outer Space,” China Security, Winter 2007, http://www.chinasecurity.us/pdfs/Issue5full.pdf, Sawyer)

Space weapons and their use are unique from other types of weapons, whether nuclear or terrestrial conventional weapons. Although there will be a taboo on the use of space weapons, **the threshold of their use will be lower** than that of **nuclear weapons because of their conventional characteristics.** Space debris may threaten the space assets of other “third party” countries, but the level of destruction, especially in terms of human life, could be far less than nuclear weapons or potentially even conventional weapons. Therefore, the threshold of force capability required to launch an effective deterrent will inevitably be higher than for that of nuclear weapons. This unique nature of space weapons will affect the determination of the quantity and technical level of a “deterrent capability” in space.

**US ratification is the only way to solve international leadership and codify a legal framework that halts global landmine use --- status quo signing still leaves the credibility of the precedent utterly destroyed**

**Holbrook 09** (Trevor Holbrook, MA, International Relations, Weber University, Thailand, “U.S. Policy Recommendation: Ottawa Convention on Anti-Personnel Landmines,” American University, Center for Human Rights and Humanitarian Law, Human Rights Brief, No. 17, 2009)

This article examines the consequences of the U.S. refusal to sign the Ottawa Convention and examines the implications of its continued refusal for the Ottawa Convention and customary international law. The United States has historically been a global leader and advocate for human rights and humanitarianism. In order to maintain this position, the United States must acknowledge the trend within the international community toward human security and protection and remain at, or at least near, the forefront of human rights law and IHL. Furthermore, **continued U.S. refusal undermines the Ottawa Convention,** which like other international law instruments, garners validity through consensus and mutual agreement. Without the support of the world’s dominant power, the Ottawa Convention cannot become customary international law; thus U.S. refusal provides leeway for rogue states to **continue the use and production of persistent landmines.** Ottawa Convention The Ottawa Convention is considered unique in that the global humanitarian community mobilized states in the effort to ban a weapon that was actively in use throughout the world. Eleven years after opening for ratification, the Convention has 156 States Parties, and international trade in landmines has virtually ceased.11 Civilian casualties are almost seventy percent below levels reported in the early 1990s.12 While several key states such as China, Russia, India, and the United States have not signed the Convention, very few states have used landmines in the last several years as a result of increasing stigmatization. Non-signatories to the Convention are very reluctant to use mines because of the high political costs involved. In the past five years, the only governments to deploy landmines were Russia, Myanmar, and Nepal; all of whom used the mines within their own borders to fight insurgencies.13 In terms of international law, the Ottawa Convention has been noted for its role in successfully incorporating the concepts of human security into the international legal framework. By using humanitarian advocacy and involving NGOs in the process, the Convention is the first treaty to eliminate a tool used for the protection of national security in favor of enhancing human security. The preamble to the Convention highlights this humanitarian focus in stating its purpose: T]o 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 defenseless 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, believing it necessary to do their utmost to contribute in an efficient and coordinated manner to face the challenge of removing anti-personnel mines. . . . 14 While the Convention establishes specific timetables and guidelines for disarmament, the most important provisions are those that require states to clear all mines from their territories and ensure an ongoing commitment to assist victims and threatened populations.15 Furthermore, reservations16 are not permitted under any circumstances, preventing states from maintaining any existing minefields or stockpiles. U.S. Landmine Policy and Its Implications The U.S. government has defended its decision not to sign the Ottawa Convention based on a number of factors. First, the United States is, by a considerable margin, the world’s largest financial donor to humanitarian mine action, contributing over $1.2 billion to activities in fifty countries since 1993. This funding supports mine clearance training and work, local mine risk education, victim assistance, mine-affected area surveys, and destruction of stockpiles. In many ways, these U.S. efforts surpass the requirements of the Ottawa Convention. Second, the United States has committed to using only detectable, non-persistent landmines that will self-detonate or lose power after a short period of time.17 Although landmines have not been used in any U.S. conflict since the 1991 Gulf War, the U.S. government still views landmines as an indispensable military tool.18 Third, the U.S. government argues that the Ottawa Convention focuses too specifically on anti-personnel landmines while ignoring other unexploded ordnance (UXO).19 The United States maintains that the most effective method of controlling the UXO threat to civilians is the creation and implementation of responsible guidelines for their production, use, and subsequent removal. The Convention has been criticized for ignoring the dangers related to anti-tank mines, cluster munitions, and other UXOs.20 Fourth, the United States perceives the “mine-free” target of the Ottawa Convention to be an inefficient and misguided goal. The intention of the comprehensive clearance goal is to increase the international focus on mine clearance, while ensuring that areas and villages are not overlooked. The United States supports a “mine-impact free” goal which will eliminate the threat of landmines in populated areas and transportation routes,21 the method which it argues allows for the most cost-effective clearance of mine threats. Finally, the U.S. government has refused to sign the Ottawa Convention because it does not allow for reservations. According to the United States, the unique situation in the demilitarized zone (DMZ) of the Korean peninsula requires the use of antipersonnel landmines in order to deter North Korean forces from entering South Korea. Without landmines, a substantially higher number of troops and weaponry would be required in Korea and more lives would be at risk. As a result, the United States has determined that the military necessity of landmines outweighs the humanitarian benefits of a total ban on anti-personnel landmines. Because the United States has been a strong advocate for universal human rights in the past and initiated the call for a landmine ban, it has been widely criticized for its refusal to accede to the Ottawa Convention. The government clearly needs to balance its competing expectations and requirements, but the landmine issue has become politically volatile. The ICRC argues that landmines are not an indispensable military weapon and that their value is dramatically outweighed by their post-conflict effects. The stigmatization of mine use has made their political costs prohibitive. As international law moves into the arena of human security, the United States cannot afford to sacrifice its position in international affairs and international law to defend a marginally useful military tool. In order to examine the reasons behind U.S. landmine policy, it is important to contrast the prominent military and humanitarian viewpoints on the issue. The military viewpoint stresses the value of anti-personnel landmines in conflict situations. They are considered “force multipliers” because they allow for the protection of larger areas with fewer troops. During military operations, active battlefields are viewed in terms of tactics and strategic objectives. Traditionally, marginal efforts aim to minimize “collateral damage” to civilians during wartime, while most concentrate on the main strategic objectives. The United States maintains that the responsible use of landmines in conflict situations is proportionately acceptable, in terms of military value, weighed against the potential danger to civilians. The humanitarian viewpoint, on the other hand, focuses on the short- and long-term effects that landmines and other UXOs have on civilian populations. The ICRC conducted a study of the military effectiveness of landmine use and found that the weapons were generally used in violation of international law and that their use had **minimal effects on the outcome of the conflicts.**23 Because the responsible use of landmines requires substantial effort and organization, the ICRC concluded that armed forces are generally unable to follow IHL when marking and mapping landmines. Furthermore, because military operations focus on battlefield tactics, they often neglect to consider the post-conflict consequences when planting mines. In other words, battlefields often return to their use as crop fields, soccer fields, or playgrounds when conflicts end. The humanitarian viewpoint acknowledges the numerous and considerable effects that landmine presence can have on post-conflict recovery and development.24 The presence of both viewpoints is evident in the complex and contradictory arguments found in U.S. landmine policy. The United States claims that, by remaining outside of the restrictions and requirements of the Ottawa Convention, it has more freedom to dedicate efforts toward the greatest humanitarian threats from all types of UXOs.25 However, this rationalization fails to recognize the value of international solidarity and collective commitment. The primary purpose of the Ottawa Convention is to highlight the importance of human security under IHL by banning the use of anti-personnel landmines. The United States acknowledges the existence of humanitarian threats from UXOs, but has failed to recognize the importance of the Ottawa Convention in the legal process toward eliminating those threats. As illustrated by the recent Convention on Cluster Munitions,26 the international community intends to eliminate the humanitarian threat of persistent and indiscriminate weapons through the introduction of hutman security into international law. While both the United States and the international community claim to be concerned with reaching the same goal, the U.S. has chosen to take a slow, incremental approach in opposition to the international majority. As a result of 12 years of competing priorities and lack of determination, the United States is **preventing the full eradication of the** humanitarian **landmine threat.**27 Though it seems that the trend toward human security in international law will continue to move forward without the support of the United States, the refusal of such a dominant world power stands in the way of the Ottawa Convention becoming customary international law and **significantly hampers** the international protection of all victims from the threat of indiscriminate remnants of war. U.S. Policy Options The policy that the United States chooses to follow regarding the Ottawa Convention has important implications, both for human security and post-conflict development in future conflict areas and for the **framework of international law.** Over the last 15 years, U.S. landmine policy has reverted from a progressive to an increasingly ostracized stance. From its current position, the United States could follow one of three possible courses of action regarding landmine policy: (1) continued adherence to the current policy; (2) movement toward the standards set out on the Ottawa Convention with an exception for the Korean peninsula; or (3) accession to the Ottawa Convention. If it adheres to the current policy, the United States will continue to support humanitarian mine action on its own terms by identifying high-risk areas and considering the costs and benefits of removing landmines in remote areas. Continued support for mine clearance training, mine risk education, and victim assistance will continue to exceed the guidelines set out by the Ottawa Convention. The military will produce and stockpile non-persistent, detectable landmines and **retain the right** to deploy them in conflict. While it is highly unlikely that the United States would use landmines in future conflict due to the political consequences, the option will remain. Following this policy will keep the United States at odds with the global humanitarian movement and the international community, and will **prevent greater acceptance** of human security and protection into international law. The Ottawa Convention will remain partially effective and, although landmines will become increasingly stigmatized, their **use by rogue states and non-state actors will continue** to inflict suffering and obstruct development.28 As the human security concept moves toward the elimination of additional indiscriminate weapons and tactics to prevent the suffering of innocent civilians, the United States will be seen as supporting inhumane warfare as the government continues to focus strictly on national security. The second option would move U.S. policy in the direction of the Ottawa Convention mine ban, while maintaining an exception for the situation in the Korean DMZ. The goals of the Ottawa Convention would be strengthened to a small degree, as U.S. disapproval of landmine use will further stigmatize the weapon. Aside from Korea, it is unlikely that the United States would use landmines in future conflicts due to the growing stigmatization. Therefore, producing and stockpiling these weapons serves only to comfort military officials. However, it is unlikely that additional countries would accede to the Convention, preferring instead to declare their own exceptions for continued use. Such a trend of exceptions would mean that the landmine ban would not be considered customary international law. The third and most favorable option is a U.S. commitment to accede to the Ottawa Convention before the end of the current presidential term in 2012. The military would be allowed the next three years to develop alternative technology, while maintaining access to current stockpiles in the meantime. The Convention requires States Parties to remove all landmines in the territories they control within ten years, allowing the United States until 2022 to replace landmines in the Korean DMZ with alternative weapons. By rejoining the rest of the progressive international community, the United States could **renew its commitment to human rights** and IHL and cooperate in **constructing future treaties** focused on human security. With the United States as a State Party to the Ottawa Convention, the ban on landmine use would approach customary international law. With the full commitment of donor countries, the humanitarian threat of landmines would be significantly mitigated. Countries remaining outside of the Convention would **come under increased pressure to accede,** reducing the threat of landmine use to mostly nonstate actors. Because of the grave humanitarian threat posed by landmine use and UXOs, the United States must acknowledge that the civilian costs far outweigh their military value, and that international solidarity is the best path to their eradication. Conclusion 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.

**The Mine Ban Treaty’s precedent is uniquely key to strengthen application of laws of weaponry for future weapons**

**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.

**Only the plan is a sufficiently strong precedent for future weapons applications**

**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 **fits 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.

**The precedent of the Mine Ban Treaty is key to resolving future weapons distinctions**

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, theMine 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.

**\*\*\*CASE**

**\*\*\*TOPICALITY**

**2ac – topicality usaf**

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

**Department of Military Affairs, No Date** (Department of Military Affairs, 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.

**3. Targeted killing is killing in times of peace or armed conflict that eliminates individuals**

**Masters 13** (Jonathan Masters, Deputy Editor, Council on Foreign Relations, citing the UN Special Report, “Targeted Killings,” May 23, 2013, http://www.cfr.org/counterterrorism/targeted-killings/p9627#p2)

According to a UN special report on the subject, targeted killings are premeditated acts of lethal force employed by states in times of peace or during armed conflict to **eliminate** specific **individuals** outside their custody. "Targeted killing" is not a term distinctly defined under international law, but gained currency in 2000 after Israel made public a policy of targeting alleged terrorists in the Palestinian territories. The particular act of lethal force, usually undertaken by a nation's intelligence or armed services, can vary widely--from cruise missiles to drone strikes to special operations raids. The primary focus of U.S. targeted killings, particularly through drone strikes, has been on the al-Qaeda and Taliban leadership networks in Afghanistan and the remote tribal regions of Pakistan. However, U.S. operations have expanded in recent years to include countries such as Somalia and Yemen.

**We meet targeted killing**

**Canadian Landmine 12** (“Antipersonnel Landmines: “A Weapon of Mass Destruction in Slow Motion,” February 13, 2012, http://canadianlandmine.org/antipersonnel-landmines-a-weapon-of-mass-destruction-in-slow-motion)

In my previous post I outlined the movement to ban antipersonnel mines in the 1990s. After the signing of the Ottawa Treaty, countries participating destroyed stockpiles of millions of AP mines. But the treaty did not ban landmines of all types. The movement was focused primarily on this specific subset of landmines, which unlike their counterparts, **specifically target individuals** and are most devastating to innocent civilians. A significant percentage of landmine casualties are the result of antipersonnel landmines. In Mozambique from 1980-1993 for example, over eighty-percent of all landmine casualties were caused by antipersonnel mines. A more recent study looking at the impact of explosive remnants of war (ERWs) in 60 states/regions indicated that in 2010 alone, ERWs caused 4,191 causalities with landmines being the largest contributor (71%). Of the landmines causing injury or death, antipersonnel mines had the highest percentage (34%), with victim-activated IEDs (18%), anti-vehicular mines (10%), and mines of “an unspecified type,” (9%) making up the rest.

**2ac – t cic**

**We meet --- we remove the war power authority for the power to make war with landmines**

**counterinterp --- CIC powers are war powers**

**McGinnis 93** – Professor of law @ Benjamin N. Cardozo School of Law [John O. McGinnis (Former Deputy Assistant Attorney General  in the Office of Legal Counsel @ Department of Justice.), “Constitutional Review by the Executive in Foreign Affairs and War Powers: A Consequence of Rational Choice in the Separation of Powers,” 56 Law and Contemporary Problems 293-325 (Fall 1993).

Foreign affairs and war powers are areas of the Constitution where the  bargaining or accommodation model has particular relevance. While the text of the Constitution does assign specific foreign policy and war powers to the president (for instance, the authority to receive ambassadors' andthe role of commander-in-chief 55) and to the Congress (for instance, the power to declare war 56 and the power to raise and support armies 57) it does not exhaustively enumerate all powers in these areas. In addition, the contours even of those powers enumerated are not clearly delineated. Therefore, the rights of  governance in foreign affairs and war would appear to be prime candidates for assignment according to the implicit bargaining model.

The output under the model depends on the relative interests and aptitudes  of the institutions that will bargain with and accommodate each other. 8 These are partly defined by the textual provisions whose core is less likely to be disputed. 9 The president's power as commander-in-chief is relevant to his  interests both because this gives him some power of initiative of action in war powers and because it creates the expectation that the president is immediately  responsible for protecting the security of the nation and the safety of its  citizens.' Given these expectations, the president will want to acquire the  rights of governance over areas, such as diplomacy, which imminently affect the  exercise of this responsibility. Additionally, the structure of the presidency as a single office possessed by one person also gives the executive unique capabilities  of acting with "secrecy and dispatch,, 61 giving him a comparative advantage in carrying out these functions. Thus, because of the president's constitutional powers and because of expectations that have developed about his responsibilities in the area of foreign affairs and war powers, the president generally places  a very high value on control of the rights of governance in foreign affairs.62 pg. 305-306

**2. 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

**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.

**2ac – at: flex DA**

**No link uniqueness --- Obama just caved to Congress on NSA restrictions - triggers the link**

**Nakashima and Miller 1/17** ( Ellen Nakashima and Greg Miller, Washington Post, “Obama calls for significant changes in collection of phone records of U.S. citizens”, <http://www.washingtonpost.com/politics/in-speech-obama-to-call-for-restructuring-of-nsas-surveillance-program/2014/01/17/e9d5a8ba-7f6e-11e3-95c6-0a7aa80874bc_story.html?tid=ts_carousel>, January 17, 2014)

President Obama on Friday **made a forceful call to narrow** the government’s access to millions of Americans’ phone records as part of **an overhaul** of surveillance activities **that** have **raised concerns about official overreach**. The president said he no longer wants the National Security Agency to maintain a database of such records. But he left the creation of a new system to subordinates and lawmakers, many of whom are divided on the need for reform. In a speech at the Justice Department, Obama ordered several immediate steps to **limit** the **NSA** program that collects domestic phone records, one of the surveillance practices that was exposed last year by former intelligence contractor Edward Snowden. Obama directed that from now on, the government must obtain a court order for each phone number it wants to query in its database of records. Analysts will be able to review phone calls that are two steps removed from a number associated with a terrorist organization instead of three. And he ordered a halt to eavesdropping on dozens of foreign leaders and governments that are friends or allies. The changes, White House officials said, **mark** the first **significant constraints** imposed by the Obama administration on surveillance programs that expanded dramatically in the decade after the Sept. 11, 2001 attacks. But the most significant change he called for, to remove the phone database from government hands, could take months if not longer to implement. And already critics from diverse camps — in Congress and outside it — are warning that what he has called for may be unworkable. Obama is retaining the vast majority of intelligence programs and capabilities that came to light over the past six months in a deluge of reports based on leaked documents. Even the most controversial capability — the government’s access to bulk telephone records, known as metadata — may well be preserved, although with tighter controls and with the records in the hands of some outside entity. The database holds phone numbers and call lengths and times, but not actual phone call content. Obama recognized that others have raised alternatives, such as the moving custodianship of the records to the phone companies or an independent third party — and that such plans face significant logistical and political hurdles. He gave subordinates including Attorney General Eric H. Holder Jr. until March 28 to develop a plan to “transition” the bulk data out of the possession of the government. Existing authorities for the phone records program are set to expire on that date, requiring a reauthorization by the Foreign Intelligence Surveillance Court (FISC). Both in his speech and in the specifics of his plan, Obama straddled competing security and civil liberties imperatives. His proposals are aimed at containing a public backlash triggered by Snowden, but also preserving capabilities that U.S. intelligence officials consider critical to preventing another terrorist attack. [Read the text of Obama’s speech.] Reaction to Obama’s call to end the phone records collection was mixed and underscored the political challenge he faces in achieving his goal. The chairmen of the House and Senate intelligence committees issued a joint statement focusing on Obama’s remarks that “underscored the importance of using telephone metadata to rapidly identify possible terrorist plots.” Sen. Dianne Feinstein (D-Calif.) and Rep. Mike Rogers (R-Mich.) added that they have reviewed the existing NSA bulk collection program and “found it to be legal and effective,” indicating they would oppose efforts to end it. “Ending this dragnet collection will go a long way toward restoring Americans’ constitutional rights and rebuilding the public’s trust,” Sens. Ron Wyden (D-Ore.), Mark Udall (D-Colo.) and Martin Heinrich (D-N.M.) said in a joint statement. “Make no mistake, this is a major milestone in our longstanding efforts to reform the National Security Agency’s bulk collection program.” Adam B. Schiff (D-Calif.), a House Intelligence Committee member who opposes bulk collection, said he thought that ultimately the NSA would have to transition to a model in which the government seeks data from individual phone companies, without forcing the companies to hold the data for longer than they do now. But many civil liberties groups said Obama failed to advance real reform by leaving open the door to third-party storage of records and data retention mandates. “He doesn’t commit to ending the bulk data collection of telephone records,” said Anthony Romero, executive director of the American Civil Liberties Union. “He gets close to understanding the concerns, but he backs away from the real reform, which is to end the bulk data collection. He gets to the finish line, but he doesn’t cross it.” Romero said he was trying to bridge irreconcilable positions: “Clearly this is a president who wants to agree with the criticism of the bulk data collection and retention, and yet wishes to retain that power notwithstanding the serious concerns,” Romero said. “And you can’t have it both ways.” John McLaughlin, a former CIA deputy director, said Obama “was trying to find a midway here.” Obama’s dilemma, he said, is responding to dual challenges: the perception that the program might one day be abused, and the reality that al-Qaeda and its affiliates are growing stronger. “So as president, he’s got to think, ‘I don’t want to take any chances here.’ ” Obama also called on Congress to establish a panel of public advocates who can represent privacy interests before the FISC, which hears government applications for surveillance in secret. Obama has instructed Holder to reform the use of national security letters — a form of administrative subpoena used to obtain business and other records — so that the traditional gag order that accompanies them does not remain in place indefinitely. But he did not, as has been recommended by a White House review panel, require judicial approval for issuance of the letters. The president also addressed another major NSA surveillance program, which involves collection of e-mail and phone calls of foreign targets located overseas, including when they are in contact with U.S. citizens or residents. He acknowledged that the information has been valuable, but directed subordinates to develop new protections for the information collected on U.S. persons. He also said he will order that certain privacy safeguards given Americans whose data are collected be extended to foreigners, including limits on the use of the information and how long it can be kept. Accompanying his speech, Obama issued a new directive Friday that states that the United States will use signals intelligence only “for legitimate national security purposes, and not for the purpose of indiscriminately reviewing the e-mails or phone calls of ordinary people.” It says that authorities will not collect intelligence “to suppress criticism or dissent” or to give U.S. companies a competitive advantage. Unless there is a compelling national security purpose, Obama said, “we will not monitor the communications of heads of state and government of our close friends and allies.” Friendly leaders “deserve to know that if I want to learn what they think about an issue, I will pick up the phone and call them, rather than turning to surveillance,” he said. As he made the case for reforms, Obama also cautioned that “we cannot unilaterally disarm our intelligence agencies.” And he caustically criticized foreign intelligence services that “feign surprise” over disclosures of U.S. surveillance while “constantly probing our government and private sector networks and accelerating programs to listen to our conversations, intercept our e-mails or compromise our systems.” He noted that some countries that “have loudly criticized the NSA privately acknowledge that America has special responsibilities as the world’s only superpower . . . and that they themselves have relied on the information we obtain to protect their own people.” Expressing frustration at those who “assume the worst motives by our government,” Obama said at another point in his speech: “No one expects China to have an open debate about their surveillance programs, or Russia to take privacy concerns of citizens in other places into account.” But he said the United States is held to a higher standard “precisely because we have been at the forefront in defending personal privacy and human dignity.” The president’s speech comes after months of revelations about the breadth and secrecy of the NSA’s surveillance activities, based on hundreds of thousands of documents taken by Snowden. New revelations based on the documents are expected to continue this year.

**No impact**

**Bremmer 10** – president of Eurasia Group and author (Ian Bremmer, “China vs. America: Fight of the Century,” Prospect, March 22, 2010, http://www.prospectmagazine.co.uk/2010/03/china-vs-america-fight-of-the-century/, ZBurdette)

China will not mount a military challenge to the US any time soon. Its economy and living standards have grown so quickly over the past two decades that it’s hard to imagine the kind of catastrophic event that could push its leadership to risk it all. Beijing knows that no US government will support Taiwanese independence, and China need not invade an island that it has largely co-opted already by offering Taiwan’s business elite privileged investment opportunities**.**

**2ac – at: esr cp**

**Roll back -- empirics prove there's a norm erosion disad**

**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]

In 1998, after choosing not to join the Treaty, President Clinton signed Presidential Decision Directive 64. Under this directive, the Department of Defense was to stop using anti-personnel landmines, save for mixed munitions, n181 outside of Korea by 2003. n182 The Directive also ordered the Department of Defense to find alternatives to all anti-personnel landmines by 2006 so that the U.S. could stop using mines worldwide and join the Treaty. n183 Additionally, Clinton launched "Demining 2010," a presidential initiative dedicated to accelerating international demining efforts. n184 Through the initiative, the U.S. committed to doubling the annual budget for the Department of State's Humanitarian Demining Program from $ 40 million to $ 80 million. n185 Taken together, these polices were stepping-stones toward the U.S. joining the Mine Ban Treaty. In light of Clinton's refusal to sign the Treaty in 1997, these were the only real options the U.S. had to maintain its image as a country serious about landmines.

Three years into the Bush administration, the U.S. turned its back on ever joining the MBT. In 2004, after conducting a landmine policy review, the Bush administration announced that the U.S. would no longer seek to join the MBT. n186 Under the new policy, the U.S. would cease using all landmines, except those with self-destructing or deactivating capabilities. n187 The U.S. would continue to reserve the right to use landmines without self-destructing or deactivating devices in Korea through the end of 2010. n188 However, the U.S. transferred the landmines along the DMZ to South Korea and they are no longer classified as U.S. mines. n189 Finally, under the new landmine policy, Bush sought $ 70 million in humanitarian mine action funding--a fifty percent increase from 2003 funding level. n190 While this policy looks progressive, the MBT prohibits self-destructing or deactivating landmines. As long as the Bush administration policy is in effect, the U.S. cannot join the Treaty.

## Advice and consent is essential to the credibility of US commitments. Other countries will always fear rollback of CEAs.

**Setear 02**, Research Professor of Law at University of Virginia School of Law

[John K., “The President's Rational Choice of a Treaty's Preratification Pathway: Article II, Congressional-Executive Agreement, or Executive Agreement?” *Journal of Legal Studies*, January, 31 J. Legal Stud. S5, LN]

Obtaining legislative approval under the Article II procedure implies a more durable commitment in at least two ways. First, the 6-year term of senators makes for a slower potential turnover from supporters to opponents of the measure in question. Suppose that the president obtains exactly a two-thirds-majority vote of the full Senate. The next election cycle can result in a Senate that would withhold its advice and consent to the same treaty only if every senator up for reelection had been a treaty supporter and lost to a candidate opposed to the treaty. Ordinarily, of course, about two-thirds of those up for reelection would be treaty supporters, in which case a change from two-thirds support for the treaty to two-thirds opposition in a single election cycle is impossible. Indeed, if one assumes a random association between those supporting the treaty and those facing reelection and assumes the usual rate of success for incumbents, then the typical election cycle sees roughly seven treaty supporters lose their seats. At that rate of turnover, and still assuming that every incumbent loses to a treaty opponent, then 4 years must elapse before even a simple majority of the Senate comes to disfavor the treaty. The congressional-executive agreement implies a much less durable commitment. The agreement may meet with legislative approval by as slim a margin as one vote in each chamber of Congress. Within 2 years, the likelihood that the opponents could gain one vote seems high. All of the members of the House who voted for the agreement, regardless of the overall margin of support, must in fact face the risks of a reelection effort. Second, obtaining the two-thirds majority required for advice and consent under Article II presumably shows a deeper or broader support for the treaty in question than do the simple majorities sufficient for legislative approval of a congressional-executive agreement. As discussed below, the likelihood of obtaining approval for a congressional-executive agreement based purely on party loyalty is much greater than the likelihood of obtaining the requisite support for an Article II treaty. More generally, a president who can muster twice as much support as opposition from a legislative body (as is necessary under the Article II procedure) presumably demonstrates a greater depth of commitment from that body than a president who garners one more vote for a treaty than its opposition can muster (as is sufficient, if obtained in both houses, for a congressional-executive agreement). To the degree that support in the Senate correlates with a more general depth of commitment to the treaty in the United States, then the successful employment by the president of the Article II procedure signals a more credible commitment than the congressional-executive agreement.

## Desroys treaty power

**Yoo 01**, Professor of Law at University of California-Berkeley Law School

[John C., “Laws as Treaties?: The Constitutionality of Congressional-Executive Agreements,” *Michigan Law Review*, February, 99 Mich. L. Rev. 757, LN]

This Article will provide a constitutional justification for the congressional-executive agreement, one consistent with the text, structure, and history of the Constitution. It will provide a clear dividing line that demarcates the situations in which treaties must be the sole instrument of national policy, and those that can be dealt with by the congressional-executive agreement. This Article is the first to base its theory of treaties upon the record of practice by the political branches, rather than making normative claims derived simply from different theories of constitutional interpretation. Practice suggests that complete interchangeability ought to be rejected because it creates severe distortions in the American public lawmaking system. Allowing statutes completely to replace treaties eliminates the restrictions upon Congress's enumerated powers and undermines the separation of powers in foreign affairs. Nor is treaty exclusivity an acceptable alternative. Congressional-executive agreements still have a legitimate place in the constitutional conduct of foreign policy, because their use preserves Congress's constitutional powers over matters such as international commerce.

**Treaties are key to cooperation on every issue – solve extinction**

**Koh and Smith 2003**

Harold Hongju Koh, Professor of International Law, and Bernice Latrobe Smith, Yale Law School; Assistant Secretary of State for Democracy, Human Rights and Labor, “FOREWORD: On American Exceptionalism,” May 2003, 55 Stan. L. Rev. 1479

Similarly, the oxymoronic concept of "imposed democracy" authorizes top-down regime change in the name of democracy. Yet the United States has always argued that genuine democracy must flow from the will of the people, not from military occupation. 67 Finally, **a policy of strategic unilateralism seems unsustainable in an interdependent world.** For over the past two centuries, **the United States has become party** not just to a few treaties, but **to a global network of closely interconnected treaties enmeshed in multiple frameworks of international institutions. Unilateral administration decisions to break or bend one treaty commitment** thus rarely end the matter, but more **usually trigger vicious cycles of treaty violation. In an interdependent world, [\*1501] the United States simply cannot afford to ignore its treaty obligations while at the same time expecting its treaty partners to help it solve** **the** myriad global **problems that extend far beyond any one nation's control**: the global **AIDS and** SARS crises, **climate change, international debt, drug smuggling, trade imbalances, currency coordination, and trafficking in human beings**, to name just a few. **Repeated incidents of American treaty-breaking create the damaging impression of a United States contemptuous of** both **its treaty obligations and** treaty **partners. That impression undermines American soft power at the exact moment that the United States is trying to use that soft power to mobilize those same partners to** help it **solve problems it simply cannot solve alone**: most obviously, **the war against global terrorism**, but also the postwar **construction of Iraq, the Middle East crisis, or the renewed nuclear militarization of North Korea**.

**CP fails -- ratification is key**

**HERBY & LAWLAND 08** a. Coordinator of the Arms Unit in the Legal Division of the ICRC b. legal advisor in the Arms Unit of the ICRC Legal Division [Peter Herby and Kathleen Lawand, “Unacceptable Behavior: How Norms are Established,” from, Banning Landmines: Disarmament, Citizen Diplomacy, and Human Security, edited by Jody Williams, Stephen D. Goose, and Mary Wareham, Rowman & Littlefield Publishers] Page 211

These examples show that the stigma attached to use, production, and trade in antipersonnel mines is such that most, if not all, states not party to the Mine Ban Treaty are reluctant to engage in these activities to avoid being sin- gled out. In other words, the mine ban norm is influencing the behavior of countries that have not formally adhered to it by becoming party to the Mine Ban Treaty. Since most states are respecting the ban on use, production, and trade of antipersonnel mines, does it matter then that there is no universally binding law prohibiting antipersonnel mines?

The extent to which the weapon has been stigmatized by public conscience, to the point of influencing the behavior of states not party to the treaty, is ev- idence of the strength of the antipersonnel mine ban norm. Still, the fact that a number of states not party continue to use or produce antipersonnel mines and that most continue to stockpile them **means that the norm remains under constant threat of erosion**. **Until it becomes universally binding law**, it will re- quire constant vigilance by its stakeholders, namely by states party to treaty, the ICBL, the ICRC, the UN, and other actors.

In the meantime, it is unlikely that a customary international law rule com- prehensively banning' antipersonnel mines will emerge any time soon. Based on the above-mentioned practice of states not party to the Mine Ban Treaty, if a customary law rule does emerge, it is likely to cover only certain parts of the ban, such as the prohibition to trade antipersonnel mines. In plained earlier, customary law is difficult to identify, and it typically embodies the lowest common denominator of what all states collectively recognize as legally binding. In the end, the goal of the global elimination of antipersonnel mines Will not be attained in the absence of a legally binding commitment of virtually all states to rid themselves completely of these Weapons. The most ef- fective Way to attain this goal is through the adherence of all states to the Mine Ban Treaty, and this is where future efforts should be focused.

**Links to politics**

**BRADLEY 07** Richard and Marcy Horvitz Professor of Law, Duke Law School

[Curtis A. Bradley, " Unratified Treaties, Domestic Politics, and the U.S. Constitution,” Harvard International Law Journal, Summer]

There has been significant academic debate over the legitimacy of **congressional**-**executive** **agreement**s. n64 Although most commentators accept that these **agreement**s are at least sometimes constitutionally valid, many commentators believe that the **congressional**-**executive** **agreement** power is narrower than the **Article II** **treaty** power. These commentators note, for example, that despite the frequent use of **congressional**-**executive** **agreement**s, presidents generally have not attempted to use them for subjects such as human rights or arms control, and the Senate has indicated that it would resist such an attempt. n65 Rather, **congressional**-**executive** **agreement**s [\*322] are most commonly used for **agreement**s relating to international trade and commerce, areas in which Congress has particularly broad authority. n66 Moreover, there are a number of examples in which presidents have used the **Article II** senatorial consent process, rather than **congressional**-**executive** **agreement**s, even though that process reduced the likelihood of legislative approval of the **treaty** -- for example, with respect to the Comprehensive Nuclear Test Ban **T**reaty. n67

**\*\*\*POLITICS**

**2ac – landmines link debate**

**Especially true because they believe the plan is awesome --- Obama can use the plan as a bargaining chip to get TPA**

**Stohr 2/12/14** (Rachel Stohr, Senior Associate, Managing Across Boundaries Initiative at the Stimson Center for Global Security, “Obama Administration Urged To Release Landmine Policy Review,” February 12, 2014, http://www.stimson.org/spotlight/obama-administration-urged-to-release-landmine-policy-review/)

Current US policy on landmines is consistent with the 2004 Bush administration update. Thus, when President Obama took office in 2009, he announced that the current policy would be put under review - an endeavor that is now in its fifth year. The contents of the policy review are unclear, as are any details on what has contributed to the delay in the policy's release. At a December 2012 meeting, US officials noted that there were "operational issues related to accession [to the Mine Ban Treaty] that require careful consideration," but did not provide further details as to the main issues of concern. In the five years since the review was announced, **68 Senators** and more than 200,000 Americans have written letters to Obama to support the US joining the Mine Ban Treaty. The US's continued delay in updating the ten-year-old policy stands in contrast to **overwhelming domestic** and international **support** for the prohibition of anti-personnel mines. The Mine Ban Treaty currently has 161 States Parties. All EU member states are parties, as is every member of NATO, with the exception of the United States. Even major US allies, including Afghanistan, Australia, Iraq and Japan are States Parties to the Treaty. And although the US is not party to the Mine Ban Treaty, the country has been in compliance with the Treaty's main provisions for more than 15 years. The United States has not used anti-personnel mines since the first Gulf War in 1991. Moreover, the United States has not exported anti-personnel landmines since 1992 and has not produced them since 1997. The United States has also been the single largest donor to mine action for more than a decade, contributing $134.4 million in 2012 alone. Only 36 countries, including the United States, are outside the Mine Ban Treaty, and nearly all are in de facto compliance with the Treaty's provisions. The only government use of anti-personnel mines has been undertaken by non-signatories Myanmar (Burma) and Syria. Therefore, it is evident that over the past 15 years, a global norm against the "development, production, use, otherwise acquisition, stockpiling, retention, or transfer" of anti-personnel mines has taken root. US accession to the Mine-Ban Treaty is consistent with the Obama administration's commitment to international humanitarian law, protection of civilians, arms control and disarmament, and multilateralism. It is a **bi-partisan initiative** that has had the **support of both sides of the aisle.** Moreover, the US military has not needed and will not need to use anti-personnel landmines to accomplish military objectives. The mines used now - command-detonated (man-in-the-loop) devices such as Claymore directional fragmentation munitions and the "Spider" system - are not prohibited by the Treaty. And, while an exception for Korea was not granted in the original Mine Ban Treaty negotiations, former US military leaders have publicly stated that anti-personnel mines are not crucial for the overall defense of South Korea. The mines in the DMZ belong to South Korea and thus, if the US joined the Mine Ban Treaty it would only be prohibited from assisting South Korea with the use, production, stockpiling, or transfer of anti-personnel mines, not in the overall defense of South Korea.

**The losers lose link is wrong --- Obama has tried to get the treaty done before --- the plan is perceived as him beating back the military, not a loss for him**

**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.

**2ac – tpa disad**

**PC not key because the DA is backwards --- TPA is dependent on the content of the TPP, not the other way around**

**Hagstrom 2/21**—Jerry, AG Week [http://www.agweek.com/event/article/id/22745/]ab

U.S. Trade Representative Michael Froman signaled late Thursday that the Obama administration plans to convince Congress to pass trade promotion authority by **negotiating** such **a strong T**rans-**P**acific **P**artnership Agreement that members will want to give the administration the authority to finish it.

“We’ll have the votes, **provided we bring back a good agreement**. Our focus now is to bring back a good agreement including in agriculture,” Froman said in the speech to the U.S. Department of Agriculture’s Outlook Forum dinner shortly before he took off for a negotiating session in Singapore.

**Won’t pass – no support in congress, PC can’t resolve it**

The Economist 2/22 [World News, 2014, “Taking Aim at Imports,” http://www.economist.com/news/united-states/21596939-protectionists-congress-could-scupper-crucial-free-trade-deals-taking-aim-imports]

The last time the White House was granted the authority to do trade deals, George W. Bush was popular and Republicans had a majority in the House. Even so, the law only just squeaked through, with 183 Democrats voting no in the House and only 25 voting yes. Moreover, the deal mooted in 2002, a free-trade pact with Andean nations, was small: the threat to American jobs from imported Peruvian knitwear seemed less menacing than an Asian pact that includes big economies like Japan and Australia (though not China).

Most of the lawmakers who voted in favour of that deal have now left Congress. Of the 279 members of both chambers who voted yes, only 86 remain. That makes any vote on granting the president the authority to do an Asian trade deal and, later, a European one, hard to predict. But there are good reasons for assuming that the chances are not good.

A total of 173 House members—151 Democrats and 22 Republicans—have already signed letters opposing the granting of deal-making authority to the White House. The wording of the letter signed by the Democrats gives them some wiggle room, but it reflects a powerful feeling on the left. “Our constituents,” said three House Democrats, George Miller of California, Louise Slaughter of New York and Rosa DeLauro of Connecticut, “did not send us to Washington to ship their jobs overseas”.

Within the Democratic caucus, there is “a level of scepticism on trade that we haven’t seen since the mid-1990s [when the North American Free-Trade Agreement, or NAFTA, was signed]—in fact it’s probably higher now than it was then,” says Matt Bennett of Third Way, a centre-left think-tank. The belief that NAFTA is partly to blame for rising income inequality and the disappearance of well-paying manufacturing jobs has become fixed on the left, so that even those who are in favour of the Asian deal talk about “learning the lessons of NAFTA”, as if it were a painful defeat.

Opponents of free trade have fixed on the idea that letting the White House negotiate behind closed doors is somehow undemocratic and that more transparency is required. The executive office responsible for trade negotiations has held more than 1,150 meetings on Capitol Hill on the Asia deal alone, but this is apparently insufficient.

A similar argument has developed to oppose the deal at the other end of the political spectrum. In addition to those few Republicans who oppose more free trade for protectionist reasons there is a larger group that likes trade deals in theory but not in practice, since negotiating them involves handing power to a president who cannot be trusted. The Republican letter opposing the granting of such authority regrets that “recent presidents have seized Congress’s constitutional trade authority” and asks for it to be returned.

It is hard to oppose greater transparency without sounding sinister, but too much will make it hard for America to do a good deal. “I don’t know anyone who, when buying a car or a house, walks in with their best price written on their forehead,” says someone involved in negotiating the Asian deal.

Both sides in Congress now seem to prefer inaction to moving ahead. The office of John Boehner, the House Speaker, has suggested he will need the support of 50 Democrats to ensure passage. That seems impossible for now, which probably suits him well: attending a signing ceremony with Mr Obama in the Rose Garden is not high on his list of priorities before the mid-terms. This suits Democrats, who would rather not pick a fight with the unions before the elections. Yet even when that hurdle is past, it is not clear that the political maths on which approval for free trade turns will have changed.

**PC not key --- partisan ideology is more important and TPA not key to trade or the economy**

WATSON 12 – 19 – 13 trade policy analyst at the Cato Institute’s Herbert A. Stiefel Center for Trade Policy Studies [K. William Watson, Stay Off the Fast Track: Why Trade Promotion Authority Is Wrong for the Trans-Pacific Partnership, <http://www.cato.org/publications/free-trade-bulletin/stay-fast-track-why-trade-promotion-authority-wrong-trans-pacific>]

Introduction

The Obama administration has asked Congress to reinstate trade promotion authority in hopes that it will enable passage of the Trans-Pacific Partnership (TPP), a trade agreement being negotiated by 12 countries in the Asia-Pacific region. Advocates of free trade generally support trade promotion authority, because it eases the passage of trade agreements through Congress by guaranteeing an up-or-down vote with no amendments. While trade promotion authority can be useful, the current political climate in Washington reduces its benefits, and the late stage of the TPP negotiations raises the risk that trade promotion authority will do more harm than good.

Free trade agreements are an important tool to improve U.S. trade policy, and "fast track" trade promotion authority has been helpful in securing the completion and passage of those agreements. But, contrary to the assertion of many trade advocates, trade promotion authority is not a necessary prerequisite to passing trade agreements.

Trade policy has become much more partisan than it was when fast track was invented 40 years ago.1 With Republicans controlling the House of Representatives and a Democrat in the White House, the TPP has excellent prospects for passage even without trade promotion authority.

While the benefits that stem from granting fast track are currently weak, the costs are still very real. In exchange for promising expedited procedures, Congress sets negotiating objectives in the trade promotion authority statute that the president is expected to adopt if he wants an agreement to receive fast track treatment. If the TPP negotiations are as far along as the administration claims, adding new negotiating objectives will delay or possibly even prevent completion of the agreement.

If trade promotion authority is to be useful in facilitating the TPP negotiations, it must subtract rather than add negotiating objectives. The TPP, as envisioned by U.S. negotiators, will push forward a lot of unpopular, new U.S. demands as a condition for access to the U.S. market. None of these "ambitious" goals—like stricter intellectual property enforcement, investment protections, and regulatory good governance—helps American consumers or furthers the goal of trade liberalization. They do, however, attract substantial political opposition at home and abroad.

Unless trade promotion authority is used to make the TPP a better agreement, there is little point in pursuing it now. The battle over trade promotion authority will likely involve a divisive debate about the value of trade in which support from individual members is bought with guarantees of protection or favor for special interests. Such a debate will surely occur again when Congress votes to pass a completed TPP agreement, so why have it twice? Unless trade promotion authority can be used to simplify the trade debate and improve trade agreements—to make them more about free trade—the American people will be better off without it.

What Is Trade Promotion Authority?

There are a lot of myths about what fast track is and how it works. A grant of trade promotion authority establishes an agreement between Congress and the president over how trade agreements should be negotiated and ratified. Both the president and Congress take on obligations. Congress agrees to hold an up-or-down vote on trade agreements submitted by the president within established time limits. In exchange for this promise, the president agrees to consult with congressional leaders throughout the negotiations and to adopt a variety of negotiating objectives dictated by Congress.2

After negotiations are completed, the "fast track" component of trade promotion authority kicks in. Under the 2002 Trade Promotion Act, the president was required to notify Congress 90 days before signing any agreement. Then the president would submit the agreement to each house of Congress in the form of a bill implementing the treaty’s obligations. The House and Senate then had a total of 90 days to pass the bill out of committee and hold a floor vote.3 During this time, no amendments could be attached to the bill, and Senate filibuster rules didn’t apply.

Trade promotion authority can be very helpful in securing ratification and implementation of trade agreements. By simplifying and streamlining the approval process, and by giving congressional leaders influence over the negotiations from the beginning, trade promotion authority greatly reduces the potential for unhelpful disruption by Congress after an agreement is completed. The procedural restrictions prevent the agreement from being picked apart by every member of Congress whose district is home to an uncompetitive business.

Indeed many proponents of trade promotion authority claim that fast track is necessary to get trade agreements through Congress, and with good reason. Trade historian Craig VanGrasstek notes that between 1789 and 1933, the president submitted 27 tariff reduction treaties to the Senate for ratification, and only five of those were approved.4 Most of those that did not pass died after the Senate simply refused to hold a vote on them. Trade promotion authority removes that possibility.

The benefits of trade promotion authority, however, come with a substantial cost. Congress generally sees trade promotion authority as a way not only to expedite the passage of trade agreements but also to influence their content.5 Any agreement that receives fast track treatment is expected to conform to demands imposed by Congress in the trade promotion authority statute.

The 2002 Trade Promotion Act, in particular, laid out extensive and detailed negotiating objectives. Topics covered in the objectives included investment protection, intellectual property laws, administrative law, labor law, and environmental protection.6 These objectives are mostly export-oriented and reflect the interests of certain U.S. business interests in foreign markets. Their inclusion may garner additional political support for the agreement, but they also attract opposition.

Most importantly, achieving these negotiating goals will not liberalize trade. Nevertheless, these non-trade issues are often the most politically contentious aspect of trade agreements. At the same time, they distract negotiators from the legitimate goal of lowering U.S. trade barriers and fighting protectionism.

Trade Promotion Authority Is Unnecessary

The conventional wisdom, among trade advocates and opponents alike, is that fast track is necessary to get agreements through Congress. But the most recent experiences with trade promotion authority following the Democratic takeover of the House of Representatives in 2007 aptly demonstrate how ineffective it can be. At the same time, trade policy has become increasingly partisan in recent decades so that trade promotion authority is now neither necessary nor sufficient to pass free trade agreements.

Partisan Congress

In theory, trade promotion authority works well to enable the president to pursue an ambitious trade policy despite a typically trade-skeptic Congress. The negotiating objectives Congress includes in trade promotion authority serve as politically necessary restrictions on the president’s power to open the U.S. market. According to conventional wisdom, accepting the need for a watered-down agreement in advance is the only way to avoid having an agreement rejected or delayed after years of difficult negotiations.

But support for and opposition to free trade agreements has become **especially predictable** and **partisan** over the last few decades. Indeed, the trade policy divide in Congress may be more partisan now than at any time since the 1920s, when protectionist Republicans imposed high tariffs that helped plunge the country into economic depression and war. Today, anti-trade sentiment has become quite powerful within the Democratic Party. The Republican Party, while certainly not dominated by free traders, is strongly committed to reciprocal liberalization through trade agreements.

The result of this dynamic is that trade agreements are passed largely along party lines, regardless of what’s in them. For example, the last time there was a Democrat in the White House and Republicans in charge of Congress, controversy over labor and environment issues prevented Congress from approving fast-track legislation for President Clinton in 1998 despite support from Republican leadership. But while Republicans opposed including strong labor and environment objectives in a grant of fast track authority to a Democratic president in 1998, they had no trouble approving three agreements in 2011 that included such provisions.

**2ac – at: econ impact**

**No impact --- no diversionary war and violence decreases**

**Drezner 12** (Daniel W. Drezner, Professor, The Fletcher School of Law and Diplomacy, Tufts University, October 2012, “The Irony of Global Economic Governance: The System Worked,” http://www.globaleconomicgovernance.org/wp-content/uploads/IR-Colloquium-MT12-Week-5\_The-Irony-of-Global-Economic-Governance.pdf)

The final outcome addresses a dog that hasn’t barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.37 Whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict**,** there were genuine concerns that the global economic downturn would lead to an increase in conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fuel impressions of surge in global public disorder. The aggregate data suggests otherwise**,** however. The Institute for Economics and Peace has constructed a “Global Peace Index” annually since 2007. A key conclusion they draw from the 2012 report is that “The average level of peacefulness in 2012 is approximately the same as it was in 2007.”38 Interstate violence in particular has declined **since the start of the financial crisis – a**s have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict; the secular decline in violence that started with the end of the Cold War has not been reversed.39 Rogers Brubaker concludes, **“the crisis has n**ot to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected.”40 None of these data suggest that the global economy is operating swimmingly. Growth remains unbalanced and fragile, and has clearly slowed in 2012. Transnational capital flows remain depressed compared to pre-crisis levels, primarily due to a drying up of cross-border interbank lending in Europe. Currency volatility remains an ongoing concern. Compared to the aftermath of other postwar recessions, growth in output, investment, and employment in the developed world have all lagged behind. But the Great Recession is not like other postwar recessions in either scope or kind; expecting a standard “V”-shaped recovery was unreasonable. One financial analyst characterized the post-2008 global economy as in a state of “contained depression.”41 The key word is “contained,” however. Given the severity, reach and depth of the 2008 financial crisis, the proper comparison is with Great Depression. And by that standard, the outcome variables look impressive. As Carmen Reinhart and Kenneth Rogoff concluded in This Time is Different: “that its macroeconomic outcome has been only the most severe global recession since World War II – and not even worse – must be regarded as fortunate.”42

**2ac – winners win**

**No Capital now – and winners-win**

**BISTAGNE 2 – 3 – 14** Laloyolan Contributor [Adam Bistagne, State of the Union address falls short, <http://www.laloyolan.com/opinion/state-of-the-union-address-falls-short/article_37260576-8c4c-11e3-afb2-001a4bcf6878.html>]

In 2013, a slew of problems damaged the Obama Administration: the National Security Agency (NSA) leaks by Edward Snowden, health care rollout errors and a U-6 unemployment rate that’s still over 13 percent. Obama’s 2013 was so dreadful that Julie Pace of the Associated Press asked Obama whether 2013 had been the worst year of his presidency at a White House press conference. Obama’s State of the Union address was the first opportunity to change the tone for the coming year, to dig his feet into the ground and sway the national conversation. I think Obama’s address failed to meet these goals and instead highlighted the flaws of his time of office. The speech was Obama’s chance to say something significant about Edward Snowden, yet he missed his opportunity. Obama had a chance to reconcile abuses of privacy with a proposal to grant Snowden amnesty. Such a 180-turn on an issue fraught with serious domestic and international problems would have helped Obama reestablish his credibility. For American citizens, it would have provided us with some hope that our informational privacy would be protected. For the U.S.’s international allies, it would have made substantial progress in repairing torn relationships. For example, the Brazilian president turned down a White House dinner last year because of the revelations about the NSA spying, a grievous snub to the administration. In addition, the European Union-United States trade deal negotiations have also been seriously derailed by the NSA fiasco. **Only a bold, decisive move** by Obama would have given him even a slight chance to repair the damage caused by the leaks. The task forces and panel recommendations have done nothing to heal the political wounds. While a drastic change is not easy in politics, I think a significant policy reform was necessary in this situation. Granting Snowden amnesty would allow progress on an E.U.-U.S. trade deal comparable to the North American Free Trade Act (NAFTA), something that would improve the American economy while providing Obama with political capital necessary to get Congress back working, if only somewhat. Even if Congress does become more functional, Obama would likely fail on his promise to deliver higher economic growth. With millions of Americans discouraged from finding work, Obama’s promises to invest in infrastructure and research are great long-term solutions for the American economy, but will do nothing over the next year to put people back to work. When Obama entered office, he instituted a $1 trillion stimulus package to reboot the economy. He went around the country defending the stimulus package based on Keynesian economics; the fact that the economy was depressed meant the government had to increase spending. Even though household income has stagnated during the past five years, Obama didn’t mention any serious macro-economic policies that could increase growth. Instead, Obama talked about his so-called “success” in cutting deficits, “success” that, in reality, is part of the cause of the middle class’ economic stagnation. When the government decreases spending in the economy, as when the government cuts its deficits, national income goes down. This simple behavior of an economy is a point that Obama has given up explaining to the American citizens because he has let the Republicans determine the conversation regarding government spending. Regarding macro-economic policies of the Federal Reserve System, Obama has appointed conservative members to the Board of Governors of the Federal Reserve System, appointed officials who will not promote greater economic growth. The middle class is struggling, and that’s because the Obama administration has not pushed back against the narrative of austerity that Republicans are promoting. The State of the Union address was Obama’s chance to advocate for monetary and fiscal policy that would stimulate the economy. However, Obama chose to talk about inadequate measures for economic growth and an inadequate resolution to the NSA controversy, resulting in an inadequate State of the Union.

# 1ar – t

**Group the interpretation debate --- our counterinterp only allows for three weapons affs --- landmine**

**They distort the plain meaning of “hostilities” make the aff debate an idiotically narrowly construed subset that the president can easily step around, no aff will be able to solve since the narrow definition is by design easily evaded by presidents. It also turns limits since the neg can shift the goal posts unless they win it’s a predictable limit.**

**Hessler 11** (Stephanie Hessler, adjunct fellow at the Manhattan Institute. She served as a national security and constitutional lawyer for the Senate Judiciary Committee, “Obama's Unhostile War,” http://townhall.com/columnists/stephaniehessler/2011/06/25/obamas\_unhostile\_war/page/full)

President Obama has **distorted the plain meaning** of a war powers statute to reach the conclusion that he does not need Congressional authorization for the military operation in Libya. Regardless of ones views on the Libyan mission, this legal tactic undermines the rule of law. The War Powers Resolution, a 1973 law, requires the President to report to Congress "in any case in which United States Armed Forces are introduced...into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances." The statute requires the President to "terminate any use of United States Armed Forces" within 60 days after hostilities begin unless Congress authorized the action. It allows for an additional 30-day extension for termination if there is no congressional consent after the 60-day mark. On March 19th, the President ordered US armed forces to commence a military assault in Libya. Recognizing the obvious fact that the War Powers Resolution had been triggered, President Obama sent a letter to Congress on March 21st to comply with the law and explain his military action. But since then, he has failed to seek congressional approval, and meanwhile the 90-day extension deadline passed this Sunday. As the deadline approached, President Obama had two valid options. He could ask for Congress's consent on Libya or he could have determined that the War Powers Resolution unconstitutionally infringes on his commander-in-chief powers. He did neither. Instead, he made the implausible claim that he does not need Congress’s consent because **United States Armed Forces** are no longer engaged in "hostilities." This will surely come as a shock to the service members deployed to Libya. The United States military has been **bombing** Muammar al-Qaddafi's compound; our bombing campaign has involved thousands of sorties; we have been firing missiles from drone aircrafts; we have helped target and destroy regime forces; our military has struck at Libyan air defenses; we provide aerial refueling to NATO forces; and we are supplying key intelligence, surveillance and reconnaissance to our allies. According to the Obama administration, we have provided “unique assets and capabilities” that are "critical" to NATO’s operation. The cost of this is 10 million dollars a day with an estimated bill of 1.1 billion by the end of September. Surely the Libyan people would also consider our actions decidedly “hostile.” Al-Qaddafi’s militants have had nearly a hundred US missiles dropped on them. Thousands of targets have been stuck. Numerous buildings have been shattered. And, thousands have been wounded or killed. It is hard to argue that this does not amount to "hostilities." But, Obama claims just that. In a report sent to Congress last week, the Obama Administration says that the Libyan mission falls short of “hostilities” in part because "U.S. operations **do not involve** sustained fighting or active exchanges of fire with hostile forces, nor do they involve the presence of U.S. **ground troops,** U.S. casualties or a serious threat thereof, or any significant chance of escalation into a conflict characterized by those factors." In other words, because US troops are in little danger, there are no "hostilities." **This is a non-sensical reading** of the term. **Under Obama’s interpretation, as soon as we switch from bombing with piloted** fighter **jets to sending missiles** in drones, **we have ceased "hostilities."** But there should be little doubt that remote warfare is equally "hostile." Moreover, there is nothing in the common understanding of the word “hostilities” that suggests that both sides in a conflict must be equally at risk. Indeed, by this logic, President Obama could unilaterally decide to drop a nuclear bomb on Tripoli and that would not amount to “hostilities” under the War Powers Resolution.